

25 SEPTEMBER 1947

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25 SEPTEMBER 1947

I N D E X
of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2587	3231		Affidavit of HIRANUMA, Setsuko		29321
2225	3232		October 15, 1932 issue of "Tokyo Asahi Shimbun" (No. 16692) - Newspaper Article by Ambassador HIROTA, Koki		29380

1 Thursday, 25 September 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE R. B. PAL, Member
15 from India, not sitting from 0930 to 1600.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -

19 (English to Japanese and Japanese
20 to English interpretation was made by the
21 Language Section, INTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Major Moore.

4 LANGUAGE ARBITER (Major Moore): If the
5 Tribunal please, language corrections on exhibits
6 3145-A and 774-A have been made and are being distrib-
7 uted. Since these corrections do not affect the
8 transcript, they will not be read at this time.

9 THE PRESIDENT: Mr. Chief of Counsel.
10

11 - - -

12 K E I S U K E O K A D A, called as a witness on
13 behalf of the defense, resumed the stand and
14 testified through Japanese interpreters as
15 follows:

16 CROSS-EXAMINATION

17 BY MR. KEENAN (Continued):

18 Q Admiral, at the meeting of the Jushin on
19 29 November 1941 was not the most important informa-
20 tion you desired to obtain specifically whether an
21 attack against the United States, Great Britain and
22 the Netherlands had been definitely determined?

23 A I have not heard any information in that
24 connection.

25 Q My question was, was not that the prime
information you sought?

1 A The Senior Statesmen all sincerely desired
2 to know the true situation, both domestic and inter-
3 national.

4 Q Admiral, I am afraid you do not understand
5 me. Was not one of the most important things in the
6 true situation the intention of the government to
7 strike immediately -- to strike at America, Great
8 Britain and the Netherlands by way of war?

9 A We wished to know that fact very much but
10 we were not told of it.

11 Q Were you War Councillor at the time?

12 A I was not a War Councillor.

13 Q If you had been, you would have had that
14 information on 29 November 1941, would you not?

15 THE PRESIDENT: Colonel Warren.

16 MR. WARREN: If your Honor please, we wish
17 to object to that question. It is speculative and
18 calls for a conclusion of the witness, if he knows.

19 MR. KEENAN: Your Honor, I am asking him for
20 his present information now, not then. We all know
21 now. I want it in the record.

22 THE PRESIDENT: I understand Colonel Warren
23 is objecting to your asking this question: Would a
24 War Councillor know. You are asking, in effect, what
25 knowledge a War Councillor has, whether he gets that

kind of information--

1 MR. KEENAN: That is correct. That is the
2 question.

3 THE PRESIDENT: That is not objectionable.
4 You must answer the question, if you know,
5 of course.

6 A I know nothing.

7 Q You had been War Councillor at one time,
8 had you not?

9 A Yes, I was.

10 Q And you knew, did you not, that the army
11 was completely without the control of Japanese
12 Government and remained so up until the great war
13 of 1941, is that a fact?

14 I withdraw that question, your Honor, and
15 put another one.

16 There were elements, Admiral, that were
17 attempting to control the future of Japan by the
18 employment of force that were difficult to ascertain?

19 A I believe that is so.

20 Q And, very briefly, that was the same movement
21 that brought about the attempt upon your life while
22 you were Prime Minister?

23 MR. WARREN: Your Honor, if--

THE INTERPRETER: The witness answered, "Yes."

1 MR. WARREN: Your Honor, we submit that
2 yesterday they objected to our attempting to intro-
3 duce evidence of the same kind with reference to
4 Baron HIRANUMA, and this question certainly then
5 has no foundation. It cannot help the Tribunal at
6 all.

7 MR. KEENAN: Mr. President, I suggest that
8 this is their witness and if they wanted the informa-
9 tion yesterday they ought to be more pleased to get
10 it today.

11 THE PRESIDENT: On the motion of the prosecu-
12 tion we yesterday on at least two occasions excluded
13 as irrelevant the evidence of the operations of indi-
14 vidual would-be assassins. If you want to establish
15 there were assassin societies, that is another matter
16 and we may have to hear argument on it.

17 MR. KEENAN: Mr. President, what we are
18 seeking to show is that now this group had actually
19 marched in to control the government of Japan under
20 the leadership of TOJO, the accused.

21 MR. WARREN: If the prosecution desires to
22 admit the imminent peril which these men operated
23 under, then we withdraw objection to this and at a
24 later time will attempt to bring in additional evidence
25 on the same thing.

1 MR. KEENAN: Mr. President, in answer to
2 that it is profoundly important -- and I think the
3 prosecution should be frank and we do admit as much --
4 that there were lawless elements in Japan, as we con-
5 tend, and that it did encompass some danger to take
6 high position.

7 THE PRESIDENT: I want to clear a point.
8 We excluded the evidence of what an individual attempted
9 because that was only indicative of that individual's
10 opinion. I do not recollect the document's saying
11 that any would-be assassin expressed any opinion
12 about anybody except in that way. By his action he
13 showed what he thought of the individual.

14 Whether the operations of whole societies
15 in that direction would make any difference is a
16 question I think we ought to hear argued if you de-
17 sire to have it argued.

18 Q Admiral, you certainly did not know that was
19 had been decided upon when you went to advise the
20 Emperor, did you?

21 A Yes.

22 Q Six weeks ago this Cabinet was chosen with
23 the approval of the same Jushin that sought information
24 29 November, 1941?

25 A Yes.

1 MR. KEENAN: My point for the moment, Mr.
2 President, is this, and I think we ought to make it
3 very clear. According to the accused, although I
4 doubt if there would be unanimity on the part of
5 the accused-- Our theory is, Mr. President, that
6 the gangster element -- I dislike using that term but
7 I know of no other word that more neatly expresses
8 it -- had actually got control of the government of
9 Japan in 1941 under TOJO.

10 THE PRESIDENT: I understand that Colonel
11 Warren is not pressing his objection. I may have
12 misunderstood him.

13 MR. WARREN: That is correct, sir, under the
14 admission of the prosecution.

15 MR. KEENAN: I would like to correct that
16 and insert the word, from our viewpoint, "contention,"
17 instead of "admission."

18 Q Admiral, you certainly did not know that war
19 had been decided upon when you went to advise the
20 Emperor, did you?

21 A Yes.

22 Q Six weeks ago this Cabinet was chosen with
23 the approval of the same Jushin that sought information
24 29 November, 1941?

25 A Yes.

1 Q After your conference with the Cabinet you
2 lunched and advised with the Emperor -- the Jushin?

3 A Yes.

4 Q The most important thing you had to advise
5 with the Emperor was whether or not war should be
6 instituted now against the United States, Great Britain
7 and the Netherlands? Isn't that true?

8 A No, that is not so.

9 Q Well, it was a very important thing to discuss
10 with the Emperor, was it not?

11 A Of course, it was a very important thing,
12 but up to that moment we had not heard a word as to
13 whether the government was actually intending to open
14 hostilities or not.

15 Q In other words, you did not know that at the
16 very time you were seeking information from TOJO's
17 Cabinet a fleet was on its way, prepared and under
18 orders to strike at Pearl Harbor?

19 A I did not know at all.

20 Q And when you met with the Emperor 29 November--
21 and my questions are addressed to that meeting for the
22 time being -- is it not a fact that each member of the
23 Jushin gave his advice to the Emperor, or expressed
24 his judgment?
25

A Yes, we did express our own views.

1 Q And there were, all told, I believe, eight
2 present -- eight Jushin, former Prime Ministers?

3 A Yes, that is so.

4 Q Did any one of the eight express, or even
5 indicate -- express to the Emperor that he had sought
6 information as to the present state of affairs inter-
7 nationally with the United States, Great Britain and
8 Netherlands, and had been refused such information on
9 the ground that it was a state secret?

10 A I think I did that.

11 Q Any others?

12 A I do not remember.

13 Q Was the Lord Keeper of the Privy Seal there
14 at the time?

15 A The Lord Keeper of the Privy Seal was present
16 at the luncheon with the Emperor and at the meeting
17 following the luncheon when we advised the Emperor.

18 Q When you informed the Emperor that you had
19 sought--- withdraw that. Did you specifically state
20 that you had sought this information from the Cabinet
21 and it had been denied you?

22 A I expressed it in much milder terms.

23 Q By the way, for a moment, while we are on
24 that subject, you used the words "negative" and
25 "dissuasive" in your affidavit. What is the meaning

1 Q And there were, all told, I believe, eight
2 present -- eight Jushin, former Prime Ministers?

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5 indicate -- express to the Emperor that he had sought
6 information as to the present state of affairs inter-
7 nationally with the United States, Great Britain and
8 Netherlands, and had been refused such information on
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16 at the luncheon with the Emperor and at the meeting
17 following the luncheon when we advised the Emperor.

18 Q When you informed the Emperor that you had
19 sought-- withdraw that. Did you specifically state
20 that you had sought this information from the Cabinet
21 and it had been denied you?

22 A I expressed it in much milder terms.

23 Q By the way, for a moment, while we are on
24 that subject, you used the words "negative" and
25 "dissuasive" in your affidavit. What is the meaning

1 of the words "negative opinion was expressed", or
2 "dissuasive opinion was expressed?" Does it mean,
3 in substance, that, having no knowledge you could not
4 give much worth-while advice?

5 A This is the meaning: We could receive no
6 worth-while information from Prime Minister TOJO and
7 we were very worried about this fact. This was what
8 we told the Emperor.

9 Q Did the Emperor just listen, or did he do
10 any talking?

11 A The Emperor only listened.
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1 Q Was anything said to indicate that the
2 Emperor had any knowledge that a fleet was already on
3 its way under orders to attack Pearl Harbor at the
4 time of your conference with him?

5 A Nothing was said. I do not believe -- most
6 likely the Emperor knew nothing about this fact.

7 Q Was that the opinion expressed by the Jushin
8 after the meeting?

9 A Yes, that is so.

10 Q If you had known that the fleet was on its
11 way to Pearl Harbor definitely, would not you and your
12 colleagues have vehemently urged the Emperor to make
13 every effort to avoid this opening of the war?

14 MR. WARREN: If the Tribunal please, I think
15 this witness could answer what was in his own mind,
16 but we do object to asking him what his colleagues
17 might or might not do under certain circumstances.

18 MR. KEENAN: Mr. President, I would assume
19 more than anyone else that counsel representing the
20 innocence of HIRANUMA would want that question answered.

21 MR. WARREN: I do for HIRANUMA, but I do
22 not know about other colleagues he had at the time,
23 and I do not know what kind of answer it is going to be.
24 If he confines it to HIRANUM, I would withdraw my
25 objection.

1 MR. KEENAN: I thought, Mr. President, that
2 learned counsel was representing only HIRANUMA and
3 DOHIHARA and did not admit a conspiracy and was not
4 interested in the defense of the other alleged co-
5 conspirators.

6 THE PRESIDENT: There is no objection, if I
7 understand Colonel Warren's objection, to this witness'
8 speaking his own mind on the matter. So let him
9 answer to that extent.

10 MR. KEENAN: Could we have the question
11 repeated, Mr. President?

12 (Whereupon, the question was read
13 by the Japanese court reporter.)

14 A Yes, that is so.

15 Q Now, of all the persons present, the one
16 whose duty, officially, it would have been to make
17 notes and record the proceedings would have been the
18 accused KIDO?

19 A Yes, that is so.

20 Q To refresh your recollection, Admiral, I will
21 read two or three short sentences from KIDO's Diary
22 which is in evidence, exhibit 1196.

23 I will ask you, Admiral, if this refreshes
24 your recollection, reading from this exhibit, KIDO's
25 notations:

1 "From 2 o'clock for about an hour in the
2 study, the Emperor listened in person to the Senior
3 Statesmen's opinions. The following is a summary.

4 "The Emperor remarked, the times have become
5 very difficult, haven't they? To this Baron WAKATSUKI
6 at once replied, in substance, as follows."

7 Mr. President, these are very short; otherwise--

8 THE PRESIDENT: I do not attempt to control
9 the Language Section. I cannot. I do not know enough
10 about the language. But I do know it is most difficult
11 to translate from English into Japanese. I may yet
12 read from this court a sample showing how difficult
13 it is.

14 MR. KEENAN: I am not speaking of the Japanese.
15 I am not in position to affirm or deny that. But I
16 am speaking of referring to some matters that are
17 already in the record which the Court ordinarily
18 does not want repeated, and I was explaining the reason
19 for short repetition to this witness at this crucial
20 point in this examination.

21 Q (Continuing) "The Emperor remarked, the times
22 have become very difficult, haven't they? To this
23 Baron WAKATSUKI at once replied, in substance, as
24 follows:
25

"WAKATSUKI: I am not worried about the

1 spiritual strength of our people but in the matter
2 of materials the question of whether or not we can
3 really stand a long-range war deserves careful study.

4 * * * * *

5 "HIRANUMA: His Excellency WAKATSUKI has
6 spoken of the spiritual strength of our people and I
7 agree with him on this point. But if today, when we
8 have already been engaged in war for four years, things
9 should further develop into a protracted war, it would
10 become necessary to endure hardships and privations.
11 I therefore consider that adequate measures and efforts
12 for bracing up public sentiment are necessary."

13 Is that not the advice that was given by the
14 accused HIRANUMA to the Emperor on that vital occasion?

15 I have searched through other parts of the
16 diary to find any other notations of HIRANUMA's state-
17 ments at that meeting and find no other.

18 Can you recall any other remark, precise
19 remark, to the contrary made by Baron HIRANUMA?

20 A I do not recall.

21 MR. WARREN: Your Honor, I wish to object to
22 that last question.

23 THE PRESIDENT: It is purely academic. He
24 said he did not recall.

25 MR. WARREN: The first question was never
answered, as I recall.

1 Q Coming now to the meeting in July of 1944,
2 was Marquis KIDO present then?

3 A He did not attend the meeting of the senior
4 statesmen.

5 Q Was it not a fact in 1944, in July, that it
6 was evident that the Cabinet of TOJO was about to fall?

7 A Yes, that is so.

8 Q On page 6 of your affidavit, your testimony,
9 you state, top of page: "This resolution was passed
10 because it was apparent that the Cabinet had lost its
11 popular appeal."

12 Is it not a fact, Admiral, that things had
13 gone badly for Japan at that time -- Saipan had been
14 taken by the Allied forces -- and that the real purpose
15 was to get a cabinet to meet that emergency?

16 A Yes, that is so.

17 Q At that meeting the senior statesmen recom-
18 mended the appointment of the accused KOISO as Prime
19 Minister?
20

21 A Yes, that is so.

22 Q And at the meeting of the Jushin that took
23 place on 5 April 1945 -- I will call your attention to
24 the contents of exhibit 1282, entry from Marquis KIDO's
25 diary 5 April 1945, and read a short portion of it to
see if it doesn't refresh your recollection.

1 Q Coming now to the meeting in July of 1944,
2 was Marquis KIDO present then?

3 A He did not attend the meeting of the senior
4 statesmen.

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6 was evident that the Cabinet of TOJO was about to fall?

7 A Yes, that is so.

8 Q On page 6 of your affidavit, your testimony,
9 you state, top of page: "This resolution was passed
10 because it was apparent that the Cabinet had lost its
11 popular appeal."

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13 gone badly for Japan at that time -- Saipan had been
14 taken by the Allied forces -- and that the real purpose
15 was to get a cabinet to meet that emergency?

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17 Q At that meeting the senior statesmen recom-
18 mended the appointment of the accused KOISO as Prime
19 Minister?

20 A Yes, that is so.

21 Q And at the meeting of the Jushin that took
22 place on 5 April 1945 -- I will call your attention to
23 the contents of exhibit 1282, entry from Marquis KIDO's
24 diary 5 April 1945, and read a short portion of it to
25 see if it doesn't refresh your recollection.

1 THE MONITOR: Mr. Prosecutor, we are looking for
2 the document, 1282. Will you give us a moment, please.

3 We have it now.

4 MR. KEENAN: Do you have the part referred to,
5 Language Division?

6 THE MONITOR: Yes, we do.

7 Q Wasn't HIRANUMA's advice as follows: "As their
8 Excellencies have said, the acute war situation today has
9 given rise to various opinions which must be unified.
10 There is no way out but to fight to the end. That problem,
11 I think, is simple." Do you not recall now that that was
12 the position taken by HIRANUMA on 5 April 1945?

13 MR. WARREN: If the Tribunal please, we wish
14 to object for the reason that this witness in his affi-
15 davit went into that matter, and upon the objection of
16 the prosecution yesterday where he explained this portion
17 the Court sustained the objection, and it was taken and
18 deleted from the affidavit. It could hardly be within
19 the scope now.

20 THE PRESIDENT: I repeat that you can be prevented
21 from getting out in examination in chief things which
22 your opponent is entitled to extract in cross-examination.

23 MR. KEENAN: Mr. President, I would call atten-
24 tion respectfully to the fact that we may -- while objecting
25 ~~to conclusions we never have objected to what was said.~~

1 I am asking now what HIRANUMA said rather than what this
2 witness concludes to be HIRANUMA's position.

3 THE PRESIDENT: I am dealing with the objection
4 as raised.

5 MR. KEENAN: I suggest, Mr. President, that
6 what the defense is objecting to is not the subject mat-
7 ter of the cross-examination but the witness answering
8 differently than they contended the facts to be.

9 MR. WARREN: Your Honor, the witness hasn't
10 answered the question to which I objected, and the Court
11 on the motion of the prosecution took this very subject
12 matter out of the direct examination, and unless I am
13 permitted to go into it at a later time the issue will
14 never be cleared before this Tribunal and an injustice
15 will be done.

16 THE PRESIDENT: The objection is overruled.
17 The matter can be dealt with by Colonel Warren in re-
18 examination if necessary.

19 MR. KEENAN: I want to correct my statement:
20 "would answer" instead of "did answer."

21 May I ask that the question be repeated. I
22 think perhaps it might not be precisely understood
23 after this argument.

24 (Whereupon, the question was read by the
25 official court reporter as follows:)

1 "Q Wasn't HIRANUMA's advice as follows: 'As
2 their Excellencies have said, the acute war situation
3 today has given rise to various opinions which must be
4 unified. There is no way out but to fight to the end.
5 That problem, I think, is simple.' Do you not recall
6 now that that was the position taken by HIRANUMA on
7 5 April 1945?"

8 A I cannot get the purport of the question.

9 Q I will simplify it for you, Admiral. I have
10 just asked that there be read to you what Marquis
11 KIDO recorded as having been said by HIRANUMA at that
12 meeting. I want to know if that refreshes your
13 recollection, if you deny that he said that in sub-
14 stance, or if you agree now with what KIDO said or
15 wrote at the time?

16 A I cannot recall very clearly.

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1 THE PRESIDENT: Can you recall at all?

2 THE WITNESS: HIRANUMA always said that it
3 was necessary to fight to the end, so it may be that
4 he did say so.

5 THE MONITOR: To find a man who would be
6 able to carry the war through to the end, so he may
7 have said it.

8 MR. KEENAN: Your Honor, I state that the
9 prosecution has great respect and confidence in this
10 witness and dislikes to press further questions. We
11 will just ask one more question on this subject from
12 KIDO's diary.

13 THE PRESIDENT: The difficulty about that
14 statement is that he is not merely a defense witness,
15 but a prosecution's witness.

16 BY MR. KEENAN (Continued):

17 Q I will ask you about another statement in
18 KIDO's diary, exhibit 1282 (Reading):

19 "HIRANUMA: There are two phases of opinion
20 at home in regard to the conclusion of the war. At
21 this time we must have a person who will fight it out.
22 We cannot recommend any peace advocator who favors
23 cessation of hostilities. From this import, the
24 choosing of a Premier has important bearings. Inci-
25 dentally, I am unable to voice any opinion if it

1 means that all we have to do is to appoint the Premier
2 and the rest to be left to him. I am strongly opposed
3 to any advocacy for peace and cessation of hostilities."

4 Do I understand correctly that the purport of
5 your affidavit was to the effect that HIRANUMA on
6 5 April 1945, the date of this excerpt that I have
7 just read, was advocating -- was a real advocate of
8 peace and cessation of hostilities at that time?

9 A In order to bring the war to a rapid con-
10 clusion -- in order to bring the war to an early con-
11 clusion, it was necessary to fight to the end -- to
12 have a person who would fight to the end. That has
13 been a contention of HIRANUMA at all times, so I
14 believe that he may have said that.

15 THE MONITOR: Correction: A man who would
16 go at it with a spirit of fighting to the end.
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1 Q Does that mean something by way of a suicide
2 attempt you are attempting to convey, Admiral?

3 A No, it is -- No, that is not what I meant.
4 It is a little different from a suicide attempt. In
5 order to -- What I meant was that in order to bring
6 the war to an early conclusion, it was necessary to
7 go about things with the spirit of carrying the war
8 through to the end, of carrying with firm determination.
9 Unless one went at it with that spirit, it would be
10 difficult to conclude the war.

11 Q Well, in short, Admiral, from what
12 you talked with HIRANUMA, was he thinking of surrender
13 or even a more persistent and bitter and emphatic move-
14 ment on the part of Japan? That is the pith of it.

15 A I believe his contentions was to bring the war
16 to an end as early as possible.

17 Q I am afraid you haven't answered the question,
18 but I will not press it any further. At any event,
19 you do not say to this Court that HIRANUMA indicated
20 to you on 5 April, 1942 that he wanted to accelerate the
21 end of the conflict at that time by way of negotiation
22 for peace -- 1945.

23 A No, he did not.

24 Q A final question, Admiral: During all these
25 discussions of the Jushin at or about 29 November, 1941,

1 was there any that concerned advices that the real
2 efforts should be made to subdue and control the law-
3 less elements in Japan before attempting to rectify
4 things in China and in the United States of America
5 and Great Britain?

6 A It is not in my recollection.

7 Q And you are certain in your mind that the
8 Emperor of Japan, on the eve of the attack on Pearl
9 Harbor, did not want the war to go on and would have
10 done what he could to avoid it?

11 A Yes, I can answer that definitely. The Emperor
12 was not concerned in winning or losing the war. He
13 disliked war.

14 Q But, he was unable, with all of his power, to
15 avoid it.

16 A Yes.

17 THE PRESIDENT: I fail to see the relevance
18 of that in this trial.

19 MR. KEENAN: Mr. President, in view of the ob-
20 servation of the Court, the relevancy is the contention
21 that these accused were engaged in the conspiracy and
22 that they seized the power of Japan; they defrauded
23 the people of Japan into believing that the Emperor
24 was behind the war with the rescript that he issued a
25 few days after or instantly, a few hours after the attack,

1 and that constituted lawlessness in Japan, as well as
2 a part of the breach of international law, too.

3 THE PRESIDENT: This is the first time in the
4 lengthy trial that that has been suggested, and it is
5 contrary to the prosecution's evidence.

6 MR. KEENAN: Mr. President, I respectfully
7 call this Tribunal's attention, as Chief Prosecutor
8 appointed under this Charter, to the fact that the
9 accused who are in the dock are the people we believe
10 are really responsible for this war. If there had been
11 anyone else, they would have been in the dock, too.

12 THE PRESIDENT: Colonel Warren.

13 MR. WARREN: Sir, there are some more questions
14 that these other gentlemen have. We are one minute from
15 recess time. I wonder if we could recess a little
16 earlier.

17 THE PRESIDENT: We will recess for fifteen
18 minutes.

19 (Whereupon, at 1045, a recess was taken
20 until 1100, after which the proceedings were re-
21 sumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Doctor KIYOSE.

4 DR. KIYOSE: I wish to ask a few questions
5 relative to the defendant TOJO.

6 CROSS-EXAMINATION (Continued)

7 BY DR. KIYOSE:

8 Q Concerning the meeting of the Senior States-
9 men on November 29, 1941, you have testified that the
10 Senior Statesmen requested information, but that the
11 government refused, saying that they were state secrets.

12 DR. KIYOSE: Mr. President, I am conducting
13 cross-examination.

14 Q On just what point did the government refuse
15 to give information, saying that they were state secrets?

16 A All.

17 Q Do you mean to say that the government did not
18 reply to any one of your questions?

19 A Yes, that is so.

20 Q Did they reply to no questions at all, either
21 the questions you put or the questions any one else may
22 have put?

23 A I didn't say that there were no replies. TOJO
24 made many replies, but he did not give us any informa-
25 tion as to what steps were to be taken in the future.

1 Q Is it not true that your affidavit concerns
2 not your desire to know of the future course of events,
3 and do not your replies to the cross-examination conduc-
4 ted by Mr. Keenan also show that you were not request-
5 ing information regarding the future course of events,
6 but that you stated that the materials on which to
7 arrive at a just estimate of the situation in which the
8 state th was were lacking?

9 A I don't understand the purport of the question
10 very well. I would like to have it repeated.

11 Q You state that the government refused to give
12 you information, but is it not true that what you were
13 after was not the future course of action the government
14 was planning to take, but the actual situation as it then
15 existed and as it had been developing up to that time?

16 A What I wanted to know concerned not only the
17 present but also concerned the future.

18 Q What did you want to know about the present and
19 the future?

20 A I wanted to ask what the government intended to
21 do.

22 Q If you wanted to know what the government
23 wanted to do, does that not only concern the future?

24 A We didn't know of the present either.

25 Q What questions did you ask concerning the

1 present?

2 A We wanted to know what the government was doing
3 at that time.

4 Q I am not quite satisfied, but I shall leave it
5 at that point.

6 You state that this conference was held in the
7 morning and in the afternoon. From what time to what
8 time was the morning session held?

9 A The morning session began around 9:30 and I
10 believe it continued to about 11:30.

11 Q Do you have no recollection as to whether or
12 not the meeting continued longer than that, and that
13 finally, upon the permission of the Emperor, the ques-
14 tions and answers continued until past noon?

15 A I don't recall clearly.

16 Q In any event, it would be quite a long session,
17 wouldn't it, if it lasted from nine until afternoon --
18 to almost noon? What did the government explain during
19 this long period?

20 A The government through the then Foreign Minister
21 TOGO explained the impasse in the Japanese-American ne-
22 gotiations up to that time.

23 Q Is that all?

24 A TOJO gave a general explanation of events, but
25 these were things of which we were already informed.

1 We learned nothing from him of what we really wanted
2 to know.

3 Q Nothing else?

4 A I don't recall distinctly.

5 Q Then, I shall ask you: Was there not an ex-
6 planation given by Mr. SUZUKI, President of the Planning
7 Board?

8 A Perhaps there was. I don't remember clearly.

9 Q What you wanted to know in relation to the situ-
10 ation as it existed at that time pertained to the resources
11 of Japan and her national strength, did it not?

12 A Yes, that is so.

13 Q Did not Mr. SUZUKI, President of the Planning
14 Board, explain this in great detail?

15 A I don't recall that he gave a detailed explana-
16 tion.

17 Q Do you recall that he gave any explanation at
18 all?

19 A Yes, I do recall that he did give some explana-
20 tions.

21 Q What did he explain?

22 A I believe that he gave us trumped up figures --
23 THE INTERPRETER: Correction: -- figures taken
24 at random. The explanations given were haphazard and
25 not reliable, I believe.

1 Q Then, did you have the knowledge necessary in
2 order to be able to describe SUZUKI's explanations as
3 haphazard?

4 A In certain connections I myself had made a
5 study and had my own figures. I asked of the govern-

6 Q Then, did you ask SUZUKI if his figures were
7 correct, based on the figures which you yourself possessed?

8 A No, I did not.

9
10 A (Continued) -- and at that time Prime Minister
11 TOJO stated, "If I gave you the figures and statistics
12 I believe you would understand, but since these figures
13 or statistics are state secrets, I am unable to do so."
14 This was in the presence of the Emperor.

15 Q What figures?

16 A I would rather you asked TOJO himself about
17 that, as to what figures.

18 Q But did not those figures refer to the answer
19 which had been made to your questions?

20 A Yes.

21 Q Then you ought to be able to know what the
22 figures were about.

23 A I believe you can understand by the previous
24 question and answer TOJO, in reply to my question,
25 said, "I believe you would be able to understand if I

1 Q Why didn't you?

2 A During the audience with the Emperor, follow-
3 ing the luncheon, I told the Emperor that the morning
4 session was devoted primarily to explanations by the
5 government, and that the more I asked of the govern-
6 ment the more concerned and worried I became, and --

7 THE INTERPRETER: Correction: The more I
8 heard from the government the more concerned and
9 anxious I became.

10 A (Continued) -- and at that time Prime Minister
11 TOJO stated, "If I gave you the figures and statistics
12 I believe you would understand, but since these figures
13 or statistics are state secrets, I am unable to do so."
14 This was in the presence of the Emperor.

15 Q What figures?

16 A I would rather you asked TOJO himself about
17 that, as to what figures.

18 Q But did not those figures refer to the answer
19 which had been made to your questions?

20 A Yes.

21 Q Then you ought to be able to know what the
22 figures were about.

23 A I believe you can understand by the previous
24 question and answer TOJO, in reply to my question,
25 said, "I believe you would be able to understand if I

1 quote figures," but that he could not do this because
2 they were state secrets.

3 Other than this, I am not informed.

4 DR. KIYOSE: I shall pass on to my next
5 question.

6 Q Chief Prosecutor Keenan asked you what ques-
7 tions the Emperor put, or if the Emperor put any ques-
8 tions, but there is one point which still remains to
9 be clarified.

10 A What was the question?

11 Q What was the Emperor's question, or what
12 questions did the Emperor put?

13 A I believe that his first words, the Emperor's
14 first words, then were, "This has become an impossible
15 situation." After that he just listened.

16 Q I think you can hardly say that the Emperor's
17 words "This is an impossible situation" or "This is
18 a difficult situation" is a question. It is a state-
19 ment, is it not?

20 A Depending on how you take it, it can be either
21 a question or a statement.

22 Q When did you reply to the Emperor as to the
23 advisability of starting a war or not starting a war,
24 based on that statement of the Emperor?

25 A I knew the Emperor's feelings very well. He

1 was not concerned with the winning or losing of a war
2 as much as his hatred for war from the standpoint of
3 the welfare of humanity in general, and I agreed with
4 this sentiment of the Emperor.

5 Q In your affidavit you state that "After we
6 had finished our meal each of us submitted our
7 dissuading opinion to the Throne." Is that so?

8 A Yes.

9 Q In view of what you have said previously,
10 I wouldn't think the question of dissuasion or of
11 carrying things ahead could arise.

12 A That was how I felt. I do not know just
13 exactly what the other Senior Statesmen felt -- how
14 they felt.

15 DR. KIYOSE: Then, I shall ask you one more
16 question.

17 Q What was the purpose, what was the idea, of
18 the government in holding this council of Senior
19 Statesmen, since it was the government that had
20 called this meeting together in the first place?

21 A In the morning session the government had
22 made explanations concerning the impasse in the
23 Japanese-American negotiations. I believe that was
24 the purpose for the government's convening the meeting.

25 THE PRESIDENT: Did the Emperor say that there

1 was one question to be settled?

2 THE WITNESS: No, I have not heard that.

3 Q May I understand your answer to the previous
4 question as follows: that the purpose of the meeting
5 was to explain the situation vis-a-vis the Japanese-
6 American negotiations?

7 A Yes, I believe so.

8 DR. KIYOSE: Thank you.

9 THE PRESIDENT: Major Blakeney.

10 MR. BLAKENEY: I shall cross-examine on be-
11 half of TOGO, Shigenori.

12 CROSS-EXAMINATION (Continued)

13 BY MR. BLAKENEY:

14 Q You have already said, Mr. Witness, that at
15 the meeting of 29 November 1941 explanation was given
16 by the Foreign Minister, TOGO, concerning the Japanese-
17 American negotiations. Can you state to the Tribunal
18 to what extent such explanation was made?

19 A TOGO explained the progress of the Japanese-
20 American negotiations in considerable detail.

21 Q Were questions put to the Foreign Minister
22 on this subject by the Elder Statesmen present?

23 A I believe two or three questions were put to him.

24 Q Did Mr. TOGO, the Foreign Minister, give
25 answers to such questions as were put to him?

1 A Yes, TOGO replied to these questions, and I
2 believe that those who asked the questions were satis-
3 fied with his answers.

4 MR. BLAKENEY: Thank you.

5 THE PRESIDENT: Colonel Warren.

6 of Prime Minister. Will you tell the Tribunal why
7 you felt that he knew -- that that was his position?

8 I heard this from HIRANUMA himself.

9 You state further in your affidavit, in
10 substance, that he did not give us his public reason
11 the reason which he had expressed to you in private.
12 Will you tell the Tribunal, if you know, why he did
13 not express publicly the same thing he told you in
14 private.

15 THE PRESIDENT: Mr. Chief of Counsel.

16 MR. BLAKENEY: Mr. President, the prosecution
17 objects to that question. It was improper at the time
18 of direct examination, and nothing has occurred in
19 any cross-examination to make it more competent than
20 it was before. It calls for a conclusion.

21 THE PRESIDENT: We can give permission to
22 ask in re-examination a question that should have
23 been put in examination in chief.

24 Put it in this form: Did HIRANUMA tell you
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his reason? You REDIRECT EXAMINATION

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BY MR. WARREN:

Q Admiral, in your original affidavit you stated HIRANUMA thought that the war could certainly be brought to an end if SUZUKI accepted the portfolio of Prime Minister. Will you tell the Tribunal why you felt that he knew ~~that~~ that was his position?

A I heard this from HIRANUMA himself.

Q You state further in your affidavit, in substance, that he did not give as his public reason the reason which he had expressed to you in private. Will you tell the Tribunal, if you know, why he did not express publicly the same thing he told you in private.

THE PRESIDENT: Mr. Chief of Counsel.

MR. KEENAN: Mr. President, the prosecution objects to that question. It was improper at the time of direct examination, and nothing has occurred in any cross-examination to make it more competent than it was before. It calls for a conclusion.

THE PRESIDENT: We can give permission to ask in re-examination a question that should have been put in examination in chief.

Put it in this form: Did HIRANUMA tell you

MR. WARREN: May this witness be excused.

1 his reason? You have our permission to ask that
2 question.

3 Q Did HIRANUMA tell you the reason that he did
4 not state publicly the same reason he gave to you in
5 private as to why he thought SUZUKI would make a
6 good Prime Minister?

7 MR. KEENAN: Mr. President, we object to
8 that question. I do not think the Court indicated
9 it be asked because it contains a suggestion of the
10 type of answer desired. I have no objection to this
11 witness telling what HIRANUMA did say without prompt-
12 ing from the questioner in the form of the question.

13 THE PRESIDENT: We will receive the answer.

14 A Yes, I have heard the reasons from HIRANUMA.

15 Q Will you give those reasons to the Court as
16 he gave them to you or repeat the conversation as
17 nearly as you recall?

18 A HIRANUMA's statement to me in private that
19 the appointment of SUZUKI would bring about early
20 peace could not be offered in public because, if he
21 did so, this would not have been peace and it would
22 prevent the formation of the succeeding cabinet.

23 THE MONITOR: "HIRANUMA told me that," fol-
24 lowed by that recent statement.

25 MR. WARREN: May this witness be excused,

1 your Honor? Oh, pardon me.

2 THE PRESIDENT: Mr. Chief of Counsel.

3 MR. KEENAN: I have two questions to ask of
4 this witness.

5 RE CROSS-EXAMINATION

6 BY MR. KEENAN:

7 Q The first one is, Admiral, was the meeting
8 of the Jushin, to which you referred, public or was
9 it extremely private?

10 A It was not held in extreme secrecy, and at
11 the same time it was not exactly official -- public.

12 Q Were there any newspaper reporters present?

13 A No.

14 Q Were its deliberations published in the
15 press or in any other manner made public?

16 A No.

17 Q A further question: You have been asked by
18 Dr. KIYOSE what the purpose was of the Jushin being
19 called together on 29 November, 1941. I ask you,
20 since there was a refusal to give vital information
21 on the course intended by the cabinet, if it isn't
22 apparent to you that the calling of the Jushin to-
23 gether at that time was a mere gesture and a fraud.

24 A Depending on one's views, perhaps, it might
25 be described that way.

1 MR. KEENAN: I have no further questions.
2 Thank you.

3 MR. WARREN: May this witness be excused
4 on the usual terms?

5 THE PRESIDENT: He is excused on the usual
6 terms.

7 (Whereupon, the witness was ex-
8 cused.)

9 MR. WARREN: We call as our next witness
10 HIRANUMA, Setsuko.

11 - - -

12 S E T S U K O H I R A N U M A, called as a witness
13 on behalf of the defense, being first duly
14 sworn, testified through Japanese interpreters
15 as follows:

16 DIRECT EXAMINATION

17 BY MR. WARREN:

18 Q Will you state your name and present address
19 to the Tribunal, please.

20 A My address is 1059 Yoyogi Oyamacho Shibuyaku,
21 Tokyo; my name, HIRANUMA, Setsuko.

22 MR. WARREN: May the witness be shown de-
23 fense document 2587?

24 (Whereupon, a document was handed
25 to the witness.)

1 Q Will you look at that document and tell the
2 Tribunal whether or not that is your affidavit and
3 if the contents are true.

4 A There is no mistake.

5 MR. WARREN: We now offer in evidence de-
6 fense document 2587.

7 THE PRESIDENT: Mr. English.

8 MR. ENGLISH: If the Tribunal please, the
9 prosecution objects as being immaterial and irrele-
10 vant and as containing opinions and conclusions.
11 The affidavit merely relates an attempted assassina-
12 tion of HIRANUMA by a gang of soldiers and a few stu-
13 dents and the destruction by fire of the home within
14 which he was living at that time, in August, 1945.
15 We submit that the rulings made yesterday apply to
16 this affidavit.

17 MR. WARREN: May I be heard, your Honor?

18 THE PRESIDENT: Colonel Warren.

19 MR. WARREN: Your Honor, if the ruling of
20 the Tribunal yesterday had not been fully explained,
21 I probably would not have offered this document.
22 But, in the face of the admissions of the prosecution
23 or what they have termed contention of the prosecu-
24 tion, and also due to the further fact that this does
25 contain statements which this witness heard herself,

1 while present at the attempted assassination, direct-
2 ly bearing on the point, I thought, perhaps, that this
3 document might not come within the ruling of the
4 Court yesterday but would be admissible at this time.
5 That is all the argument, sir.
6

7 THE PRESIDENT: By a majority the Court
8 overrules the objection and admits the document on
9 the usual terms.

10 CLERK OF THE COURT: Defense document 2587
11 will receive exhibit No. 3231.

12 (Whereupon, the document above re-
13 ferred to was marked defense exhibit No.
14 3231 and received in evidence.)

15 MR. ENGLISH: If the Tribunal please, if
16 I may, we think that the last paragraph on page 2
17 should be deleted from the affidavit, within the
18 rulings previously made, as containing matters of
19 opinion by a gang of men as to whether HIRANUMA was
20 this way or that way.

21 THE PRESIDENT: The Tribunal has given its
22 decision and will not review it.
23
24
25

1 MR. WARREN: There is one objectionable word
2 which I shall not read, your Honor:

3 "My name is HIRANUMA, Setsuko. I was born in
4 Kamakura, Japan in 1913, and now live at 1053 Yoyogi
5 Oyamacho Shibuyaku, Tokyo. I have been asked if I know
6 anything of the attack made on the home of the accused
7 HIRANUMA on 15 August 1946. I do know because I was
8 there and because that was my home. Baron HIRANUMA is
9 my mother's uncle, but we always called him 'OJIISAN',
10 Granddad, in our house. He was old and had no one to
11 take care of him; therefore, my parents, my two children
12 and I lived with him. At that time my husband had been
13 conscripted and was in the Navy. My mother was over
14 sixty years of age, in delicate health, and I was man-
15 aging the house.
16

17 "During the night of August 14-15, 1945, there
18 had been an air raid alarm and we were in a dug out air
19 raid shelter which was in our yard. At about 3 a.m. on
20 the morning of the 15th of August the air raid alarm
21 was lifted and we came out and went to bed in the house.
22 At about 5:30 a.m. there was another alarm. I awakened,
23 dressed and was ready to go into the shelter again when
24 I learned that this time the raiders were carrier borne
25 planes and not bombers. I attempted to get my children
to go back to sleep, but they wanted to stay up with me.

1 Had I not permitted them to do so I probably should
2 never have seen them alive again, for suddenly I heard
3 a terrific noise and loud shouting outside our house.
4 I looked through my window and saw a gang of men coming
5 through the front gate, making for the house proper.
6 I had been warned by the police guards stationed in my
7 house that something very unpleasant was likely to happen
8 and I guessed accurately what this disturbance might
9 mean. Just the day before one of the guards, TANAKA,
10 Hiroshi, told me he did not like the way Army planes;
11 that is, Japanese Army planes, had been flying low over
12 our house and that we had better be prepared in the
13 event they should drop bombs on us.
14
15 "I knew the mob entering our front gate had
16 come up after Granddad HIRANUMA, because they had the
17 police guards, about fifteen in all, lined up in a single
18 row with their hands over their heads, and I heard the
19 leader of the gang, whom I could see and whom I later
20 learned was an Army captain by the name of SASAKI,
21 shouting at the top of his voice. He was saying: 'Don't
22 you know what sort of a _____ HIRANUMA is? You don't
23 know, eh? He is a notorious leader of the pro-Anglo-
24 American group.' He is a traitor. Don't you realize
25 our country is going to collapse and be destroyed?
Guarding an arch traitor. You should be ashamed of your-

1 selves.'

2 "The first thing which occurred to me was that
3 I must get Granddad away from the house. I left my
4 children, who were clinging to me, a girl of 8 and a
5 boy of 6, with an old Amah (elderly housemaid), and
6 rushed towards his room. By this time a number of
7 soldiers in uniform had come into the house and were
8 throwing gasoline all over the house and setting fire
9 to all the rooms one after another. Paper doors,
10 screens and mats caught fire. I was not afraid, be-
11 cause I did not have time to become frightened, and
12 besides, I was dressed in a kind of uniform we all
13 used to wear in those days when there was an air raid.
14 I was much too worried over Granddad to be afraid. I
15 got about half way to his room but was choked my smoke
16 and found it impossible to advance forward. At this
17 time I heard one of the gangsters shouting, 'We can't
18 find HIRANUMA', and another one shouted in reply, 'He
19 will be burned to death in a minute.' When I heard
20 this I felt that someone had managed to take Granddad
21 away from his room just in the nick of time, and I re-
22 turned immediately to the servants quarters and sought
23 for my children and Amah, but they were nowhere to be
24 seen. I was extremely worried and asked one of the sol-
25 diers in the house what he had done to them and where

1 they were, but he stated he did not know. I passed the
2 leader of the gang and his soldiers when I was going
3 out through the side gate. He was just inside the
4 front gate with his men. They were all holding big
5 drawn swords and pistols and covering the police guards
6 with at least one machine gun. The Captain, whom I
7 later learned, as I stated, was named SASAKI, glared
8 at me but I asked one of the soldiers whether he had
9 seen my children anyway. He replied in a very brusque
10 manner that they had gone out.

11 "I then went around the house toward the yard
12 of the neighboring building. This building happened
13 to be an office and library of a cultural organization
14 known as Mukyukai, and Granddad was its President. I
15 thought he might be hiding there. Amah and my children
16 were there. The gang had guarded the front gate and a
17 side gate with machine guns in the event Granddad came
18 out, but they had overlooked a third gate through which
19 one could go directly into the Mukyukai library. In
20 the library was a lone police guard, who made a sign to
21 me, indicating that Granddad was in the building hiding.
22 Some of the gang who raided our house that morning, ap-
23 peared to have been students and one of them threatened
24 Amah and my children with a drawn sword, in an attempt
25 to force her to tell him where the old man was. He

1 looked extremely vicious holding his drawn sword over
2 his head, and Amah thought sure he was going to kill
3 her. However, he did not harm either her or the
4 children.
5

6 "By the time I had located the children and
7 learned Granddad was in hiding, the house was in full
8 blaze, and it was completely destroyed, except the ga-
9 rage, which was only half destroyed. The mob left in
10 a truck and shortly afterward the firemen arrived with
11 their pumps, but they were too late. According to my
12 estimate and that of the guards, there were roughly
13 forty men, mostly soldiers and a few students. This
14 attack occurred the same morning Premier SUSUKI's
15 house was assaulted, but his house escaped with only
16 small damage."

17 You may cross-examine.

18 THE PRESIDENT: Mr. English.

19 MR. ENGLISH, If your Honor please, there will
20 be no cross-examination.

21 MR. WARREN: May the witness be excused on
22 the usual terms?

23 THE PRESIDENT: She is released on the usual
24 terms.

25 (Whereupon, the witness was excused.)

1 MR. WARREN: At this time, your Honor, we
2 will offer the accused HIRANUMA, if the Court so
3 desires, as a witness under Section 4b of the Charter.

4 THE PRESIDENT: The Court has nothing to add
5 to what it has already stated in this regard.

6 MR. WARREN: I understand. I am not doing
7 anything except making a record on the matter. Thank
8 you, sir.

9 We have asked for certain reservations in
10 the event we can receive additional evidence; and,
11 with those reservations, we will pass the proceedings
12 on to Mr. Yamaoka.

13 THE PRESIDENT: Mr. Chief of Counsel.

14 MR. KEENAN: Mr. President, I fail to note
15 anything in the Charter with reference to reserva-
16 tions or fail to note anything in the rules of the
17 Court as to reservations. I don't know whether
18 HIRANUMA has been called to the stand or not. I
19 want the record to so show.
20

21 Secondly, I ask that, if they have any fur-
22 ther evidence as to HIRANUMA, they either present it
23 now or that they be told that it will not be re-
24 ceived at a later date unless an excellent reason
25 is given for presenting it out of turn.

Mr. President, I would add to that that I

1 think a failure to so rule might lead to a parade of
2 these accused afterwards, at a later date, a clutter
3 of them taking the stand when they have declined to
4 do it in the orderly procedure of the Court.

5 THE PRESIDENT: Colonel Warren.

6 MR. WARREN: Your Honor, the Tribunal ruled
7 on this yesterday at the time the prosecution made
8 objections to the type of evidence. When I asked
9 for those reservations the Court made a note that I
10 had made them. Of course, what you will do later
11 depends on the time it is presented. I shall rest
12 my case at the proper time in the estimation of this
13 counsel.

14 I should like to point out further that this
15 makes twice that prosecution has commented on the
16 failure of HIRANUMA to to take the witness stand,
17 contrary to the Charter. He has not gained permis-
18 sion from the Tribunal to do so. I think it should
19 be called to his attention not to do that.

20 MR. KEENAN: Mr. President, this Court can-
21 not accurately, even at the request of Colonel War-
22 ren, call my attention to such revision of the
23 Charter because it doesn't exist. Furthermore, Mr.
24 President, the subject matter has been open about
25 the taking of the stand by Colonel Warren himself.

1 He has said, as far as this record is concerned, that
2 he calls this witness. Now, I ask for a ruling by
3 this Court: Has the witness been called by the
4 counsel for this accused? Has he seen fit to take
5 the stand or hasn't he?

6 MR. WARREN: Your Honor, I offered him under
7 Section 4b of the Charter, that's all, and explained
8 to the Tribunal why. That is the same article that
9 counsel says does not exist.

10 MR. KEENAN: Mr. President, the article that
11 I had reference to in the Constitution was the request
12 for this Court to admonish me not to refer to the
13 fact that the accused had not taken the stand. That
14 is definitely what I understood Colonel Warren to
15 advert to. To avoid confusion, Mr. President, does
16 the Court rule that the accused has been offered as
17 a witness or not? I would like to know so the record
18 can be clear. It is a type of legal prestidigitation.
19 I do not understand it.

20 THE PRESIDENT: Colonel Warren.

21 MR. WARREN: Your Honor, I based this on
22 Section 4, Article 11b, and I object to the use of
23 the word "prestidigitation," whatever it was, because
24 this is something that is done in every military
25 tribunal. It happens with the British; it happens

1 in our Navy; it happens in our Army; and this is a
2 military tribunal under the Charter. There is nothing
3 wrong with it, no legal tricks.

4 THE PRESIDENT: I will confer with my col-
5 leagues on this matter. They may have different
6 views about it. We will adjourn until --

7 MR. KEENAN: Mr. President, before adjourn-
8 ment, might I state briefly that I have been informed
9 by my associate counsel, Mr. Brown, from the United
10 Kingdom that he has sat on British courts-martial
11 and there is no such provision therein contained.

12 THE PRESIDENT: We will adjourn until half-
13 past one.

14 (Whereupon, at 1203, a recess was
15 taken.)
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AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at 1330.

2
3 MARSHAL OF THE COURT: The International
4 Military Tribunal for the Far East is now resumed.

5 THE PRESIDENT: We give our decision on the
6 application of the Chief of Counsel made just before
7 the luncheon adjournment.

8 The position on the record is clear. The
9 accused HIRANUMA has not tendered himself as a wit-
10 ness. If he did, he would give his direct testimony
11 and be subject to cross-examination by the prosecution
12 like any other witness.

13 As to the position under the Charter, the
14 Tribunal will interrogate the accused if and when it
15 sees fit. No question of the accused's offering
16 himself under this provision of the Charter arises.
17 It is the right of the Tribunal to interrogate if it
18 sees fit.

19 The accused HIRANUMA must decide forthwith
20 whether he intends to give evidence or not personally.

21 Colonel Warren.

22 MR. WARREN: If the Tribunal please, the
23 only point in which defense is in doubt and has been
24 in doubt is as to whether these words in Section 4,
25

1 Article 11-b, apply only to 11-b or apply to the
2 accused generally taking the witness stand; that is,
3 to permit comment on his refusal to answer any ques-
4 tion. If the accused by not voluntarily offering
5 himself as a witness -- I mean, is an accused, by
6 not voluntarily offering himself as a witness, auto-
7 matically placed in the category of having refused
8 to answer a question? Upon that point and that point
9 alone hinges the decision which it is my duty to make.
10 As I understand the ruling of the Tribunal, it did
11 not cover that question which has been uppermost in
12 the mind of at least this defense counsel.

13 If the Tribunal please--

14 THE PRESIDENT: The question only arises
15 when he is asked a question and refuses to answer it.
16 That is the position under 11-b, which reads: "The
17 Tribunal shall have the power to interrogate each
18 accused and to permit comment on his refusal to
19 answer any question."

20 MR. WARREN: Thank you, your Honor.

21 May I have just a moment to confer with co-
22 counsel? It will take about thirty seconds.

23 MR. BROOKS: May I make a further inquiry?
24 I have a different opinion than Colonel Warren on
25 this point.

1 I had interpreted the article, 11-b, to mean
2 that the Tribunal shall have the power to interrogate
3 each accused if he takes the witness stand and to
4 permit comment on his refusal to answer any question
5 under those circumstances, but I did not think that
6 the Tribunal had the power to call the accused to the
7 stand if he did not desire to testify and, therefore,
8 would not be allowed to comment upon his refusal to
9 take the stand. Even under the Tribunal's present
10 ruling that ambiguity still exists.

11 THE PRESIDENT: Mr. Chief of Counsel.

12 MR. KEENAN: Mr. President, I do not know
13 whether the Court is being asked to change its ruling
14 or to extend it or modify it. I see nothing in the
15 Charter that expressly prohibits comment being made on
16 the absence of any witnesses testifying, including
17 the accused. I am informed by learned Associate
18 Counsel from the United Kingdom, from whence many of
19 our own laws in the United States emanated, that until
20 1898 it was not permitted in that jurisdiction that the
21 accused offer testimony in his own behalf at a trial,
22 and in that jurisdiction when provision was made by
23 law to accord accused that opportunity or privilege
24 it was found advisable, perhaps necessary by inference,
25 to include in the act that there should be no comment

1 on the failure of the accused to take the witness
2 stand.

3 In our own country, Mr. President, the
4 practice of commenting and the prosecution's comment
5 is specifically prohibited and no approach even may
6 be made to drawing the court's or the jury's atten-
7 tion to the fact that the witness has not taken the
8 stand; but, Mr. President, there may be no better
9 time than the present to point out the difference
10 between an international trial and a national trial
11 in this particular respect, that in the preservation
12 of law and order, domestically, nationally or mun-
13 icipally, as it is frequently called, society has the
14 advantage of investigative agencies and the like that
15 operate concurrently with alleged transgressors of
16 the law. No such equivalent has existed during the
17 times we are concerned with and it makes an enormous
18 difference and, I suggest, justifies the broad pro-
19 visions that exist and undoubtedly do exist in this
20 Charter affording wide latitude in the introduction
21 of evidence and other parts of judicial procedure.
22 And, finally, there will not be, I am sure, the
23 slightest suggestion in history that any effort was
24 made to in any way apply any coercion, force or in-
25 ducements upon the part of the witnesses to give any

1 testimony at any time, from the beginning of the
2 occupation up until this date and I hope forever
3 afterwards.

1 THE PRESIDENT: With regard to the point raised
2 by Captain Brooks, that particular provision, article
3 11-b, would be redundant if it meant only that the
4 Court could interrogate the accused if the accused
5 desired to go into the box to give evidence. If it is
6 not redundant then it means that the accused sitting
7 in the dock can be interrogated by the Tribunal. Now,
8 if, sitting in the dock, accused are interrogated by
9 the Tribunal, if that is what the power is, then their
10 failure to answer can be made the subject of comment.
11 Of course, if they go into the witness box and refuse
12 to answer there is nothing in the Charter that says
13 that the refusal to answer shall not be the subject
14 of comment.

15 MR. BROOKS: If the Tribunal please, I would
16 like to answer briefly on that point. I think the
17 Tribunal's attention is directed to the first half,
18 rather than the last half of that phrase, and I think
19 it was for the last half that the article was put in,
20 because, as the learned prosecutor has just stated,
21 the right to comment is one which has been so restricted
22 that I believe the Supreme Commander, in drafting this
23 Charter, these articles, said that if the Tribunal
24 interrogates the accused and he refuses to answer then --
25 this is the important thing -- they will permit comment

1 on the refusal. That is what this was intended for,
2 and not for the interrogation of the accused itself.
3 The reason for that is plain, if the Tribunal takes
4 into consideration that normally no court would try
5 to force a witness to take the box and testify, because
6 he could say "I don't know," "I don't remember," and it
7 would be a futile thing; and the court could not comment
8 even if he refused to answer in the normal procedure.

9 THE PRESIDENT: If you are right the article
10 in question would be just half as lengthy as it is.

11 MR. BROOKS: That would give it a different
12 meaning entirely, if the Tribunal please. That would
13 then say that they could permit comment in any case,
14 even if he refused to take the box. I say that it
15 limits it. I say this: That the court has this power
16 to interrogate each accused as he takes the box, and
17 permit comment on his refusal to answer when in the box,
18 and no other power besides that.

19 THE PRESIDENT: I would like to be able to
20 agree with you, Captain Brooks, because no judge in my
21 country would dare to put a question to an accused in
22 the dock. But we are faced with words which appear
23 plain to me. However, a majority of the Court may take
24 a different view of their meaning. We haven't decided
25 on that yet.

1 MR. BROOKS: Wh^y I am asking is for the
2 Tribunal to extend its present ruling so that in
3 article 11b they read in and interpret that to state
4 "to interrogate each accused if he takes the witness
5 stand."

6 THE PRESIDENT: I may say that, whatever
7 the power is, I personally will not put a question
8 to an accused in the dock.

9 Colonel Warren.

10 MR. WARREN: If the Tribunal please, the
11 Court's ruling seems perfectly clear to me and permits
12 me to make up my mind. However, the question raised
13 by Mr. Chief Prosecutor to the effect that the accused,
14 if he did not take the witness stand, there being no
15 prohibition against it, that he might be subject to
16 comment for his failure to do so. It appears to me
17 to be rather far-fetched, and the very statement that
18 he made that it would not be forcing the accused to take
19 the witness stand would be quite the contrary, because
20 that is a distinct advantage to the prosecution, to be
21 able to comment on the testimony.

22 MR. NEWMAN: Mr. President, that was well
23 understood by the prosecution, which will attempt to
24 keep within the confines of its own work and realize
25 that while the prosecution can never speak for the Court

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25 that while the prosecution can never speak for the Court

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1 MR. KEENAN: Mr. President, perhaps we can
2 save some time in this court by a commitment by the
3 prosecution that in its summation it will make no
4 reference whatsoever as to whether an accused does or
5 does not take the witness stand. I might state,
6 Mr. President, that the prosecution feels it is mak-
7 ing no substantial concession in so doing, but be-
8 lieves that to be in the interest of fairness. But
9 where evidence is introduced of a hearsay type or
10 evidence is introduced where other evidence is avail-
11 able, it may be from time to time that we will have to
12 advert to that where some inferences could be drawn.
13 We will not mean in that instance to advert to the fact
14 that the witness has not taken the stand. That is all
15 I can say about the matter.

16 THE PRESIDENT: What the learned Chief of
17 Counsel says, of course, does not touch the position of
18 the Tribunal. We know that he spoke only for the
19 prosecution. We want to make it clear that by our
20 silence we are not subscribing to anything he says as
21 to what part we must play.

22 MR. KEENAN: Mr. President, that was well
23 understood by the prosecution, which will attempt to
24 keep within the confines of its own work and realize
25 that while the prosecution can never speak for the Court

1 many times the Court may find it necessary to direct
2 some phases of the prosecution.

3 THE PRESIDENT: Colonel Warren.

4 MR. WARREN: If the Tribunal please, the
5 ruling of the Court seems to be in absolute accord with
6 my interpretation of the Charter, and we must and will
7 risk the sound discretion of the Court and will pass
8 the case at this time to the next counsel who will
9 continue in the individual phase of the following
10 accused.

11 MR. PRESIDENT: Captain Brooks.

12 MR. BROOKS: If the Tribunal please, I am
13 far from satisfied that the ruling of the Court has
14 been made and extended so there is no ambiguity; and
15 there is such a discrepancy among the opinions of the
16 various defense counsel that I would like to have this
17 matter settled if the Court feels fit to extend and
18 pass on this ruling to clear that point up.

19 THE PRESIDENT: If anything has been left
20 unclear we shall clarify it at the proper time.

21 Mr. Yamaoka.

22 MR. YAMAOKA: May it please the Tribunal,
23 owing to the fact that the accused HIROTA, Koki, does
24 not at present have the benefit of American counsel to
25 present his defense, I respectfully request permission

1 to appear as his American counsel pro hac vice for
2 the purpose of presenting the evidence which has been
3 prepared by his other counsel.

4 THE PRESIDENT: I do not quite follow. What
5 are you going to do for HIROTA? What will you fail to
6 do that his former counsel would have done? Are you
7 going to offer his evidence? Are you going to call his
8 witnesses?

9 MR. YAMAOKA: Yes, your Honor.

10 THE PRESIDENT: You are going to cross-examine
11 or examine them in chief? Are you going to re-examine
12 them? You are going to take his objections?

13 MR. YAMAOKA: I intend to do that, your Honor.

14 THE PRESIDENT: And you are going to sum up,
15 are you?

16 MR. YAMAOKA: Well, that has not yet -- I
17 only intend to present his evidence at the present time;
18 and during the course of it, if the witnesses nat-
19 urally will be called, his other evidence, documentary
20 evidence, will be tendered. If objections are necessary
21 I intend to take them.

22 THE PRESIDENT: For the time being, so far as
23 we can judge HIROTA has the assistance of American
24 counsel.

25 Mr. Comyns Carr.

1 MR. COMYNS CARR: May it please your Honor, in
2 my submission it would be desirable to have it quite clear
3 whether my friend, Mr. Yamaoka, is instructed by the ac-
4 cused HIROTA or not. Otherwise --

5 THE PRESIDENT: I do not think he would come
6 to that lectern unless he had HIROTA's authority, which
7 only means instructions. HIROTA is listening to him.
8 I will not insult Mr. YAMAOKA by asking him whether he
9 has HIROTA's authority.

10 MR. YAMAOKA: Thank you, your Honor. Of course,
11 I actually have that authority.

12 THE PRESIDENT: Proceed to read the opening.

13 MR. YAMAOKA: Thank you.

14 Defense document 2571, first on the order or
15 proof, is the opening statement, which will be read in
16 its entirety.

17 Before I commence I desire to state that there
18 have been some corrections noted, and I believe that all
19 the copies distributed to the Tribunal have the correc-
20 tions noted. So I shall commence reading without mak-
21 ing specific corrections at the present time.

22 Mr. President and Members of the Tribunal:

23 We will show by the evidence already introduced
24 into the record which relates solely to events that trans-
25 pired while Mr. HIROTA held office and by the production

of documents and the testimony of witnesses the following facts:

1. Mr. HIROTA started his long service as a career diplomat in 1906 and ended his public service in May 1938. He never occupied a military office at any time. His political and diplomatic views and policies during that long period of time were constantly characterized by peace, good will and conciliation among all nations, which were mere expressions of his modest, friendly, sound and steady character. He is one of the most outstanding men ever produced by Japan and has been widely and favorably known throughout Japan and most of the nations of the world as a liberal and progressive man who constantly strove for peaceful relations between Japan and all other nations. He was known and deeply respected both as a diplomat and statesman because of his uniform advocacy of peace and conciliation among nations. Trust and belief in the soundness of his views and policies were the main reasons why he was chosen for the first time as Foreign Minister in 1933. At that time Japan was virtually isolated from the family of nations because of the attitude taken by the League of Nations toward the Manchurian Incident. He was appointed Prime Minister at the time of the internal confusion

1 in Japan caused by the so-called February 26 Incident
2 which was an army revolt led by officers having no
3 rank higher than captain. The HIROTA policy of con-
4 ciliation, friendship and good will among all nations
5 stands in contrast to the policy of the previous
6 Foreign Minister Count UCHIDA which had been de-
7 scribed as a "scorched earth diplomacy." Though the
8 period between 1932 and 1936 was described as extra-
9 ordinary because of the aftermath of the Manchurian
10 Incident, it marked a turning point in the relations
11 of Japan with the United States, Great Britain, the
12 Netherlands, etc.; it marked a period of tran-
13 quility and showed a gradual improvement of internal
14 and external conditions and relations. The slow but
15 steady progress which Mr. HIROTA had made in his
16 capacity as Foreign Minister and Prime Minister was
17 interrupted by the wholly unexpected Lu-Kow-Chiao
18 Incident of July 7, 1937. The evidence will show
19 beyond doubt that Mr. HIROTA led the all-out and even
20 heroic effort for peace on the part of the Japanese
21 Government which immediately decided upon a policy
22 of local settlement and nonaggrandizement; but, despite
23 the prolonged efforts of the government to bring the
24 incident to a speedy conclusion, the fighting con-
25 tinued to spread and what originated as the Lu-Kow-Chiao

1 Incident expanded into the so-called China Incident.
2 The evidence will show in detail all the efforts
3 made by the Foreign Office to effectuate peace in
4 China. These efforts were attended by the utmost
5 sincerity and neither Mr. HIROTA nor any other respon-
6 sible official of the Foreign Office ever entertained
7 any notion of prolonging the affair and certainly
8 no idea of dominating or conquering China or any
9 part of that country. No responsible official in
10 the Foreign Office was ever so naive as to think
11 that Japan could ever successfully dominate the
12 teeming four hundred (400) millions in China. Japan
13 did try to protect the lives and limbs of its nationals
14 and their legitimate property rights in China. It
15 had no other motive as far as the Foreign Office was
16 concerned. The principles and policies which Mr.
17 HIROTA advocated with respect to the China Incident
18 ultimately met opposition from the army and this in
19 turn caused him to resign the post of Foreign Minister
20 in the First KONOYE Cabinet in May 1938 although he
21 had announced his intention to resign as early as
22 February 1938. Since his resignation he never occu-
23 pied any official office in the executive branch of
24 the government and he had no ambition whatever in
25 that direction.

1 2. Mr. HIROTA by nature is endowed with
2 "the spirit of harmony among all nations" by his
3 very words spoken in the Diet on numerous occasions.
4 Throughout his occupancy of high office he always
5 sought to promote conciliation and friendship with
6 other countries of the world. On June 5, 1927 he
7 arrived at the Hague as Japanese Minister to the
8 Netherlands.

9 Mr. HIROTA was transferred from the Neth-
10 erlands to be Ambassador to the Soviet Union and
11 during his Ambassadorship he definitely improved
12 the relationship and feeling between the two coun-
13 tries which was accomplished by solving piece by
14 piece the various outstanding problems. After re-
15 turning to Japan and assuming the office of Foreign
16 Minister he constantly sought to strengthen the
17 friendship and good will between Japan and the Soviet
18 Union. Among other exertions on his part, we point
19 to his efforts as mediator in the negotiations whereby
20 the Soviet Union sold the Chinese Eastern Railway to
21 Manchukuo, the negotiations having extended over a
22 period of nineteen (19) months in Tokyo before the
23 formal transfer and sale was signed in March 1935.
24 The interest of Mr. HIROTA in acting as mediator was
25 actuated solely by his effort to remove a potential

1 source of friction. Moreover, the Chinese Eastern
2 Railway connected with the South Manchurian Railroad
3 and was an important traffic link between the East
4 and Western Europe. Even Litvinov, Commissar for
5 Foreign Affairs, expressed deep gratification for
6 the patient services of Mr. HIROTA as mediator during
7 the long negotiations. Nothing in connection with
8 the negotiations for the sale, which will be shown in
9 detail, even intimates any pressure by Japan in the
10 negotiations. The fact is that the Soviet Union
11 suggested the idea of sale of the railway to either
12 Manchukuo or Japan and the Soviet Union seemed to be
13 as glad to remove a potential source of friction as
14 was the Japanese Government.
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1 Communist. The evidence will show that Mr. HIROTA
2 was personally in favor of the conclusion of a non-
3 aggression treaty as proposed by the Soviet Union
4 during his tenure as Ambassador to Russia; upon his
5 return from Moscow he transmitted the suggestion of
6 the Soviet Union to Foreign Minister UCHIDA. The
7 reply of the Japanese Government to that suggestion
8 was sent to the Soviet Union during the period when
9 Mr. HIROTA was in retirement, he having returned to
10 Japan from Moscow in late 1932 and had been in the
11 status of retirement and on pension until he was
12 unexpectedly called to the post of Foreign Minister
13 in the SAITO Cabinet in September 1933. the prosecution

14 4. The Anti-Comintern Pact which was con-
15 cluded between Japan and Germany during the HIROTA
16 Cabinet in November 1936 had no other objective than
17 to defend against the progressive encroachment of the
18 communist movements which offered imminent threat to
19 the Japanese form of government as well as to the
20 form of government maintained by all nations operating
21 on the so-called capitalistic system. The Anti-Cominter
22 Pact was aimed solely against communist movements, not
23 the Soviet Union, although the opinion was widely held
24 in Japan in 1936, especially after the Seventh Con-
25 vention of the Communist Internationale, that the

1 Communist Internationale and the Soviet Union in their
2 real objectives were one and the same thing. The
3 Anti-Comintern Pact did not change the intention of
4 Mr. HIROTA and the Japanese Government to maintain
5 friendly relations between the two states. The pact
6 was not a "first step" in the direction of a military
7 alliance with Germany and neither Mr. HIROTA nor any
8 other responsible person in the Japanese Government
9 in 1936 entertained any such fantastic notion. The
10 evidence will further show that no man in Japan ever
11 worked harder to promote friendly relations between
12 Japan and the Soviet Union.

13 5. The effort on the part of the prosecution
14 to show by the KASAHARA manuscript that Mr. HIROTA
15 entertained anti-Soviet ideas is a paper with respect
16 to which Mr. HIROTA knows nothing. Part of the tran-
17 script will be referred to in which the same witness
18 testified that the content of said manuscript, which
19 is almost undecipherable, is contrary to what Mr.
20 HIROTA used to express as his opinion with respect to th
21 relations with the Soviet Union.
22

23 6. The evidence will further show that the
24 Chinese policy of Mr. HIROTA was based entirely on
25 the spirit of harmony, conciliation, compromise, and
peace at almost any dignified price. Here again the

1 evidence will show that no man in the recent history
2 of Japan ever worked harder to bring about a rapproche-
3 ment in the relations between Japan and China which
4 were strained both before and after the Manchurian
5 Incident. The atmosphere surrounding the relation
6 between China and Japan while Count UCHIDA was Foreign
7 Minister was gloomy in the extreme. Mr. HIROTA exerted
8 his utmost efforts in improving the relationship between
9 the two countries as soon as he assumed the post of
10 Foreign Minister and extended to China on many occa-
11 sions directly and in addresses before the Diet the
12 open hand of friendship and understanding. The evidence
13 will show that during his occupancy of high office
14 various pending problems between Japan and China were
15 solved and new steps were effected to promote cooper-
16 ation between the two countries. Thus in the early
17 part of 1934 negotiations were started between the
18 Minister to China ARIYOSHI and Mr. Wang Ching-wei,
19 President of the Executive Yuan and concurrently
20 Foreign Minister of the Nationalist Government, for
21 the purpose of fundamentally and radically improving
22 the relations between Japan and China. These nego-
23 tiations progressed smoothly and as a result Mr. HIROTA
24 made a statement to that effect in the Diet on
25 January 22, 1935; following this statement, on

1 February 20, 1935, Mr. Wang Ching-wei made a statement
2 along the same line as the foregoing. On March 2,
3 1935, Mr. Chiang Kai-shek endorsed the foregoing
4 statement by Mr. Wang Ching-wei. Moreover, the
5 Japanese Government had recognized the Chiang Kai-shek
6 regime and Mr. HIROTA was deeply interested in the
7 tedious efforts of Chiang Kai-shek to bring internal
8 order, unity and stability to China. In May 1935,
9 in an effort to strengthen and promote sentiment and
10 good feeling between Japan and China, the existing
11 legations in both Japan and China were elevated to
12 the status of embassies.

13 'In an effort to materialize the above-
14 mentioned Sino-Japanese relations, the Japanese Govern-
15 ment, on October 4, 1935, decided its Chinese policy.
16 This policy was formulated along lines of the wishes
17 of Mr. Wang Ching-wei. The so-called "HIROTA's Three
18 Principles," with respect to China, were made public
19 through Foreign Minister HIROTA's speech in the
20 Imperial Diet on January 21, 1936, and this statement
21 to the Diet with respect to the Chinese policy was
22 identical in substance with the policy decided by the
23 Japanese Government on October 4, 1935.

24 7. Mr. HIROTA has always maintained a firm
25 belief that in view of the poverty of resources and

1 economic weakness of Japan the progress of Japan was
2 impossible without the cooperation and friendship of
3 the United States, Great Britain, the Netherlands and
4 China; and his friendship for and cooperation with
5 those countries to the utmost could be said to be the
6 cornerstone and real basis of his diplomacy. He sought
7 to persuade Great Britain to join the Anti-Comintern
8 Pact or a pact of similar nature which would strengthen
9 the ties. Although Great Britain refused to join the
10 pact he kept fending off the frequent proposals of
11 Italy to join the Anti-Comintern Pact solely because of
12 fear Great Britain would not understand the motive and
13 that reaction in Great Britain would work to the
14 deterioration of friendly relations.

15 8. His bold bid for cooperation and better
16 understanding was manifested in one form by the
17 exchange of notes between Mr. HIROTA and Mr. Hull in
18 February 1934. Numerous addresses made by him in the
19 Imperial Diet will be of tremendous assistance in
20 showing his straightforward statement of his beliefs
21 and views. His assertion in the Diet of 1935 that
22 "there will be no war while I remain in office" is
23 illustrative of his determination as a diplomat and
24 statesman. In view of the autonomous character of the
25 army and navy under the Japanese Constitution the

1 Tribunal will readily recognize the courage manifested
2 in the foregoing statement.

3 9. The prosecution has contended, with all
4 the benefit of hindsight, that though the utterances
5 of Mr. HIROTA with respect to relations with foreign
6 powers were conciliatory, his actual policies and their
7 results were of a different nature. By nature
8 Mr. HIROTA is not given to mental duplicity or crafti-
9 ness. The evidence will show that where the result
10 turned out to be different from the course Mr. HIROTA
11 charted the result was caused by circumstances
12 entirely beyond his control. He resigned his last
13 public office in May 1938 with the full realization
14 of the fruitlessness of all his long efforts. He had
15 the unhappy experience of being called to high office
16 in Japan during a period of extreme distress in both
17 internal and external affairs and while he worked with
18 great fervor to right both internal and external un-
19 balance, he lived to see all the ideals and objectives
20 he worked so hard to achieve fall in ruins about him.
21 A large part of the evidence will relate to the efforts
22 on the part of Mr. HIROTA in the face of such situations
23 and it is intended by this means, in part, to refute
24 the existence of a common plan or conspiracy to accom-
25 plish any of the objectives set forth in the alleged

1 Indictment and to make it crystal clear that he is not
2 guilty of an individual crime with respect to any count
3 in the alleged Indictment relating to him.

4 10. When Mr. HIROTA assumed the post of
5 Foreign Minister for the first time, Manchoukuo had
6 already been recognized as an independent state by
7 Japan and the relationship between the two countries
8 was considered an accomplished fact which did not lay
9 within the power of any one man in Japan to easily
10 change. The evidence will show that all Mr. HIROTA
11 could do in those circumstances was to labor to improve
12 within limits compatible with the new situation the
13 relationship between Japan on one side and China and
14 other powers on the other which, as previously stated,
15 had become sorely aggravated because of the Manchurian
16 Incident and the rise of the Manchoukuo Government.
17 Evidence already in the case and to be further demon-
18 strated will show that his efforts resulted progressively
19 in removing all factors on the basis of which third
20 powers contended that Manchoukuo was something less
21 than a sovereign and independent state. Witness his
22 successful effort to establish in 1935 the joint econo-
23 mic commission between Japan and Manchoukuo with an
24 equal number of representatives on each side and the
25 surrender of all extraterritorial rights in favor of

1 Manchoukuo in 1937. His efforts consisted in
2 conscientious adjustment of those situations.

3 11. In representations by the United States,
4 Japan was sought to be held responsible for economic
5 measures adopted by Manchoukuo such as the so-called
6 petroleum monopoly in Manchoukuo and in other respects.
7 The Foreign Ministry found it impossible to give full
8 satisfaction to these complaints without fundamentally
9 denying the independence of Manchoukuo which, as
10 previously stated, had been recognized by the Japanese
11 Government, before the days when Mr. HIROTA came to
12 office, as a sovereign and independent state fully
13 capable of dealing with its own internal and external
14 problems in its own right.
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12. On July 7, 1937, the Lu-Kow-Chiao Incident suddenly broke out. It was on July 8, 1937 when telegraphic information to that effect first reached the Foreign Office. Mr. HIROTA was resting at his country home at the time in Kugenuma, Kanagawa Prefecture, without the slightest knowledge, much less forethought, of this Incident. On July 9 an extraordinary Cabinet meeting was held at which the policy of non-aggrandizement and speedy local settlement of the Incident was firmly decided upon and Mr. HIROTA took the initiative on that occasion. That policy was immediately transmitted from the Foreign Office to the Japanese Ambassador and Consuls in China and the Army and Navy transmitted the same instruction to their respective units in China. On July 11 a plan for preliminary preparation for mobilization was proposed by the Army and for this purpose an urgent Cabinet meeting was summoned; Foreign Minister HIROTA opposed the idea of the Army for an immediate adoption of the mobilization plan. However, on that occasion War Minister SUGIYAMA explained that the proposed plan for preliminary preparation for mobilization did not mean an immediate start of preparation for mobilization of home divisions, but was intended only to decide preliminary for the start of

1 preparation for mobilization in case the situation in
2 China should be aggravated by chance in the near
3 future, and SUGIYAMA went on to explain that without
4 this preliminary understanding he could not be held
5 responsible for the protection of the Army itself on
6 the spot, the numerous Japanese residents in China,
7 as well as important Japanese vested interests, in
8 view of the smallness of the Japanese force on the
9 spot which numbered only five thousand men. Upon
10 this explanation, the Cabinet gave its approval to
11 this preliminary Army plan with the understanding that
12 the preparation for mobilization would be halted
13 immediately in case negotiations for local settlement
14 and restoration of peace were successful. On that
15 occasion and at the insistence of Mr. HIROTA he made
16 the understanding doubly sure that, even in case an
17 Army should be dispatched in this connection, the
18 object would be for the sole purpose of protecting
19 Japanese residents and forces in China.

20 13. On July 11, 1937, Mr. HIROTA asked the
21 Chinese Charge d'Affaires to come to the Foreign Office
22 and there explained to him the necessity for a speedy
23 local settlement. On the same day he sent an instruc-
24 tion to Councillor of the Embassy HIDAKA to make the
25 same statement to the Chinese Department of Foreign

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2 China should be aggravated by chance in the near
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21 13. On July 11, 1937, Mr. HIROTA asked the
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23 and there explained to him the necessity for a speedy
24 local settlement. On the same day he sent an instruc-
25 tion to Councillor of the Embassy HIDAKA to make the
same statement to the Chinese Department of Foreign

1 Affairs. A local settlement was reached on the night
2 of the same day. However, the situation shortly be-
3 came aggravated as the Nanking Government started the
4 brisk movement of huge numbers of troops to the north.
5 In the face of this alarming development and increas-
6 ing incidents between Chinese and Japanese troops in
7 North China and in view of the general background and
8 situation within China itself, the Cabinet, on July
9 20, 1937, approved preparation for mobilization of
10 three home divisions in compliance with the Cabinet
11 decision of July 11, as previously stated. Even in
12 the face of that tense situation Mr. HIROTA did not
13 abandon in the least his hope for a peaceful solution
14 and he ordered Councillor HIDAKA to continue the
15 negotiation with the Chinese which resulted in an
16 agreement with Mr. Chang Chun, Governor of Su Chuan
17 Province, providing for the mutual withdrawal of
18 troops from the troubled areas. The Japanese Cabinet
19 decision of non-reparation and non-annexation arrived
20 at in the early part of 1937 was self described by Mr.
21 HIROTA as being so wholesome that "the whole world
22 would pay respect to the fair and unselfish attitude
23 of the Japanese Empire." Negotiations based upon those
24 principles were conducted between Ambassador KAWAGOE
25 and Mr. Kao Tsun-Wu, Director of the Chinese Bureau of

1 Asiatic Affairs. At the same time Consul-General
2 OKAMOTO exerted strenuous efforts on instruction from
3 the Foreign Ministry for the maintenance of peace in
4 the Shanghai district. Not being satisfied with the
5 effectiveness of these official negotiations, Mr.
6 HIROTA dispatched Mr. ARITA, Hachiro, former Foreign
7 Minister, and Mr. FUNATSU, Shinichiro, to China to
8 work for peace among influential Chinese personalities
9 behind the scenes. On October 1, 1937, the basic
10 policies for dealing with the China Incident were de-
11 cided among the four Minister, that is to say, the
12 Prime Minister, Foreign Minister, War Minister and
13 Navy Minister; there it was sincerely decided to seek
14 a solution upon the broad principle to end the Incident
15 as soon as possible, to adhere to international laws,
16 to limit the combat zones roughly to the Hopei, Chahar
17 and the Shanghai districts and so solve the problem of
18 North China by assisting in whatever way might be
19 possible in placing that district under the firm
20 administration of the Chinese Nationalist Government.
21 On October 20 and November 7, 1937, the Belgian
22 Government invited the Japanese Government to partici-
23 pate in the Brussels Conference in connection with the
24 China Incident but it was unable to accept the invi-
25 tation. Evidence will be offered to show that the

1 non-acceptance of this invitation did not constitute
2 a breach of the Nine-Power Treaty. Moreover, strong
3 and decisive elements in Japan were wary about accept-
4 ance of an invitation to the Brussels Conference be-
5 cause of apprehension that its ultimate decision had
6 already been cut and dried and that nothing short of
7 direct negotiations between the Chinese and Japanese
8 would bring an end to the basic conditions which lay
9 at the root of all difficulties between China and
10 Japan for many years. Nothing the Foreign Minister
11 could do would have altered that attitude in the
12 least. However, Foreign Minister HIROTA met Sir Robert
13 Craigie, the British Ambassador, frequently after the
14 latter's arrival in Japan in 1937 and asked the good
15 offices of his Government for the realization of
16 peace between Japan and China.
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On October 27, 1937, Mr. HIROTA held an interview with the Ambassadors of Great Britain, the United States, Germany and Italy and told them frankly that the Japanese Government would warmly welcome any action by any of the above-mentioned four powers to take the initiative in introducing peace in China and to act as intermediary in any peace negotiations, the negotiations to be based solely upon the simple and non-aggressive principles expressed in the draft decision reached in the early part of August 1937 among the four Ministries mentioned above; all this notwithstanding the fact that Japan was not in a position to accept the invitation to the Brussels Conference. In response to this Sir Robert Craigie, British Ambassador, visited Foreign Minister HIROTA soon thereafter and informed him of the readiness on the part of Great Britain to take the initiative and to act as intermediary between China and Japan. Mr. HIROTA asked him to do so. However, this effort on the part of Mr. HIROTA did not progress because of objection raised by the Army. Later, the Army began to advocate the good offices of Germany. Mr. HIROTA hesitated to ask Germany because he doubted the effectiveness of its good offices as Germany had only a weak voice in China. About the same time Sir Robert Craigie, British Ambassador, proposed to Foreign Minister HIROTA the use of the combined

1 good offices of Great Britain, the United States and
2 Germany and it will be shown that Mr. HIROTA was
3 greatly interested in that proposal; however, it did
4 not materialize on account of an objection from the
5 Army and the lack of enthusiasm on the part of Germany
6 in the use of its good offices in a joint effort with
7 Great Britain and the United States.

8 In December 1937, Von Dirksen, the German
9 Ambassador, informed Foreign Minister HIROTA of the
10 readiness of Germany to render good offices and he
11 inquired about the Japanese terms. Mr. HIROTA intended
12 to make the terms decided in the early part of August
13 1937 the basis for the proposed negotiations and Mr.
14 HIROTA thought at that time there would be no objection
15 on the part of the Army. However, as the liaison confer-
16 ence had been set up immediately preceding this occasion,
17 the question was left to the final consideration of the
18 liaison conference. On the other hand, Nanking fell on
19 December 13, 1937, and as a result the general public
20 and press in Japan favored a stronger China policy. At
21 the liaison conference in December 1937 the opinions of
22 Foreign Minister HIROTA and others were not accepted
23 and there were various heated arguments on that occasion.
24 The upshot of the liaison conference was the insistence
25 on stronger terms of peace for China than the terms

1 agreed upon in the early part of August 1937. Addition-
2 ally, the Nationalist Government of China was expected
3 to make an answer to the new proposal by the fifth or
4 sixth of January of the following year. Mr. HIROTA
5 showed the newly decided basic terms to the German
6 Ambassador and gave him minute and detailed explanations.
7 The German Ambassador presented the terms to the Chinese
8 side but the answer from the Chinese side was not forth-
9 coming until January 14, 1938. The answer of the Chinese
10 requesting more picayune details which had already been
11 fully explained by Von Dirksen to them was regarded by
12 the Japanese Government as exhibiting an inclination to
13 protract the negotiations and in general as exhibiting
14 an attitude of procrastination. The whole setup and
15 complexion with respect to Chinese bona fides caused a
16 deep feeling among the Cabinet that Chiang Kai-shek was
17 using the occasion for the strategic purpose of rallying
18 all China behind his banner and the anti-Japanism front.
19 Thus, on January 16, 1938, the Japanese Government issued
20 a statement "hereafter not to deal with the Nationalist
21 Government." In this manner, the First KONOYE Cabinet
22 discontinued peace negotiations with the Nationalist
23 Government but insofar only as the formal aspect of the
24 negotiations were concerned. Nevertheless, even at this
25 stage and with the fighting in China constantly

1 spreading, Mr. HIROTA did not give up his hope of
2 negotiating a peaceful settlement with the Nationalist
3 Government; and in the spring of 1938, he was in contact
4 with the Nationalist Government which was then in Hankow
5 with respect to the problem of a durable peace. In
6 short, it was the consistent and earnest desire of
7 Foreign Minister HIROTA to restore peace in the speediest
8 possible manner with China on the most reasonable and
9 conciliatory terms; and he was at his wit's end in dealing
10 with this intricate situation to prevent the spread
11 of the Incident ever since it broke out on July 7, 1937.
12 The evidence will show that he exerted his best efforts
13 toward that end throughout his tenure of office and
14 until the day he resigned from the First KONOYE Cabinet
15 in May 1938, he held high and almost prayerful hope that
16 peace would reign. However, as the war progressed in
17 favor of Japanese forces his position in the Cabinet
18 became extremely shaky and difficult because of con-
19 sistent adherence to his mild and conciliatory principles
20 and ideas in dealing with the Chinese. This fact was
21 recognized by Ambassador Grew as early as October 30,
22 1937. Thus Mr. HIROTA expressed his desire to resign
23 while the Diet was in session in February 1938; but his
24 resignation was not so simple because of his extraordinary
25 sense of responsibility and the actual tug in politics

1 inasmuch as he joined the First KONOYE Cabinet at the
2 ardent request of and support of the so-called sound
3 and liberal faction represented by the last Genro, the
4 late Prince SAIONJI, and others. Mr. HIROTA having
5 occupied the topmost position of Prime Minister was
6 most reluctant to accept a lesser office in the First
7 KONOYE Cabinet and did so only at the earnest request
8 of Prince SAIONJI who entertained the opinion that
9 Mr. HIROTA would lend strength and balance to the First
10 KONOYE Cabinet.

11 THE PRESIDENT: We will recess for fifteen
12 minutes.

13 (Whereupon, at 1445, a recess was
14 taken until 1500, after which the proceed-
15 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Yamaoka.

4 MR. YAMAOKA: May it please the Tribunal, I
5 will continue with paragraph 14 of the opening state-
6 ment:

7 14. The Anti-Comintern Pact between Japan
8 and Germany was a means for defense against Communistic
9 movements in so far as its external aspect was con-
10 cerned; internally speaking it was aimed, among other
11 purposes, to alleviate one aspect of the insecure
12 feeling of the Japanese arising out of its virtual
13 international isolation since the Manchurian Incident
14 and confrontation with the cold attitude of the League
15 of Nations and the United States. The Anti-Comintern
16 Pact as planned by the Japanese Government did not aim
17 to obtain participants to the Pact solely among
18 totalitarian States; Japan sought adherence to the
19 Pact among all the States in the world aside from the
20 Soviet Union. The evidence will show that the Nether-
21 lands, Great Britain and others were sincerely ap-
22 proached for the purpose of securing their adherence
23 to the principles of the Pact.

24 15. Evidence will be introduced to show that
25 Mr. HIROTA had no connection whatsoever with the

1 conclusion of the Tripartite Pact and that during the
2 YONAI Government he, in his unofficial capacity as
3 so-called State Counsellor, advised Mr. YONAI against
4 participation in any such military alliance. The
5 evidence will show that after Mr. MATSUOKA negotiated
6 the Tripartite Pact, Mr. HIROTA, in his capacity as a
7 private citizen, talked and argued against it and
8 stated that MATSUOKA was following a course "fatal to
9 Japan." As previously stated, Mr. HIROTA always main-
10 tained the firm conviction that the future of Japan
11 lay in close cooperation with the United States, Great
12 Britain and the Netherlands. He was deeply disturbed
13 that the Tripartite Pact would only result in in-
14 creasingly bad relations between Japan and the United
15 States and Great Britain.

16 16. The revisions effected in the organiza-
17 tion laws for the War Ministry and Navy Ministry which
18 followed the February 26 Incident by the terms of which
19 qualification for the offices of Ministers and Vice-
20 Ministers were limited to Generals and Admirals on the
21 active list did not alter one iota the existing
22 immemorial custom and usage under which only those on
23 the active list were appointed to the posts of
24 Ministers and Vice-Ministers. The circumstances sur-
25 rounding the revision of those laws have already been

1 testified to. The deponent of the affidavit marked
2 as court exhibit No. 2366, who was unable to testify
3 in person because of illness at that time, will appear
4 as a witness in this phase of the case. Additional
5 evidence will be introduced to show actual examples
6 in which attempts were made to form a cabinet by
7 appointing a retired General to the post of War
8 Minister after recall to active service.

9 17. The steps taken by Mr. HIROTA in con-
10 nection with the naval negotiations of 1934, such as
11 the abrogation of the Washington Naval Treaty and
12 others, do not constitute violation of any treaty
13 obligations or principle of international law. Mr.
14 HIROTA was a leader in thought in Japanese Govern-
15 ment for general naval disarmament, abolition of
16 offensive equipment and the principle of "non-menace
17 and non-aggression" among all nations. As late as
18 1938, Mr. HIROTA stated that the time might be ripe to
19 call a new limitation conference of the powers. The
20 Court will recall evidence already introduced by the
21 prosecution that upon the failure of those naval
22 limitation agreements Mr. HIROTA assured all the powers
23 that the absence of agreements did not mean that Japan
24 would engage in a naval construction race.
25

The prosecution erroneously contended that

1 Mr. HIROTA assumed the post of President of the Board
2 of Planning; it was not the Board of Planning, but the
3 Bureau of Planning to which he was appointed as
4 President. The Bureau of Planning was exclusively
5 engaged in studies and preparations for the establish-
6 ment of the Welfare Ministry and he held that office
7 from June 10 to October 24, 1937, although he seldom
8 attended meetings. The Bureau of Planning did not deal
9 with any other important business. This evidence will
10 show that he had nothing to do with the Army five-year
11 plan, other five-year plans discussed in the evidence,
12 or with any plans to increase the strength of the
13 nation for war purposes.

14 19. As previously stated, Mr. HIROTA did
15 not hold any responsible position after his resigna-
16 tion from the Government as Foreign Minister in the
17 First KONOYE Cabinet in May, 1938. Therefore, there is
18 no ground for holding him legally responsible for the
19 decisions and steps taken by the Government at any
20 time since May, 1938. He was a Cabinet Counsellor
21 under the YONAI Cabinet, but a Counsellor had no
22 other responsibility than to express advisory opinions
23 in response to inquiries if and when the Government
24 saw fit to ask for such opinions. Mr. HIROTA was
25 treated under Japanese custom as a so-called "Elder

1 Statesman" along with other persons who had held the
2 position of Prime Minister, and his opinion was some-
3 times sought concerning special political problems,
4 more particularly with respect to the choice of the
5 candidate for Prime Minister in case of a cabinet
6 change. Mr. HIROTA approved the recommendation of
7 General TOJO at the time the Third KONOYE Cabinet re-
8 signed because he trusted Marquis KIDO's opinion that
9 General TOJO was a suitable person for the purpose of
10 reconsidering the decisions made by the Imperial
11 Conference held on September 6, 1941. Mr. HIROTA did
12 not know General TOJO at that time and had no knowledge
13 of what kind of a person he was. Mr. HIROTA agreed
14 with the opinions expressed by Marquis KIDO who was
15 then Lord Keeper of the Privy Seal. Moreover, Mr.
16 HIROTA understood at the time that the TOJO Cabinet
17 would continue with sincerity its efforts for the
18 restoration of normal relations between the United
19 States, Great Britain, the Netherlands, etc., and he
20 had no thought whatever at the time he agreed with
21 Marquis KIDO's opinion that war would transpire on
22 December 7, 1941. Mr. HIROTA's opinion, expressed at
23 the Imperial Conference held on November 29, 1941,
24 when he was summoned as one of the "Elder Statesmen,"
25 called for "diplomacy first," and is sufficient in

1 itself to prove that even at the eleventh hour and
2 when the existing government was of the opinion that
3 war was "inevitable" he stood out as a bulwark in his
4 consistent and lifelong advocacy of peace and con-
5 ciliation. It will be clear to all those who have a
6 correct understanding of Marquis KIDO's diary that Mr.
7 HIROTA did all which lay in his power to avoid a con-
8 flict between Japan and the United States, Great
9 Britain and the Netherlands.

10 20. Thus it will appear that Mr. HIROTA had
11 no part in or power to control the Pacific War or any-
12 thing to do with what transpired in connection there-
13 with; no part in the negotiation for or conclusion of
14 the Tripartite Pact; nothing whatever to do with the
15 landing of troops in French Indo-China, the arbitra-
16 tion of the boundary disputes between French Indo-
17 China and Thailand; and nothing to do with the border
18 clashes between Japanese and Russian troops in Man-
19 churia. Mr. HIROTA has never entertained the thought
20 or said or done anything whatever which would indicate
21 that he either individually or in connection with a
22 common plan or conspiracy sought Japanese domination
23 of the world or any part thereof or any race or people
24 living therein.
25

 The evidence will also show that complaints

1 lodged with the Japanese Foreign Office by foreign
2 governments received unprecedentedly prompt attention
3 and answer. The prompt, humble and apologetic atti-
4 tude assumed by Mr. HIROTA and the Japanese Government
5 upon the happening of the "Panay" and "Ladybird"
6 accidents in Chinese waters and prompt payment of in-
7 demnities in connection therewith are all attributable
8 to Mr. HIROTA. The evidence will show that no man who
9 ever occupied the Foreign Office was more disturbed
10 about those incidents and others which occurred in
11 China during the course of large-scale hostilities
12 because they, in the estimation of Mr. HIROTA and the
13 responsible officials of the United States and Great
14 Britain, seemed to offer an imminent threat to good
15 relations between those countries and the possibility
16 of undoing in moments of emotion and passion on the
17 part of foreign governments of everything Mr. HIROTA
18 had worked so assiduously to build up during his years
19 in office. Even when Mr. Grew, the American Ambassador,
20 transmitted to the Foreign Office complaints of
21 religious and other groups in Nanking about atrocities
22 committed in Nanking by Japanese troops on and after
23 December 13, 1937, Mr. HIROTA, without knowledge as to
24 whether those reports were true or false, accepted
25 those reports from the standpoint of the Foreign

1 Office as being substantial, ordered the responsible
2 officials to take the complaints up with the War
3 Minister who was to make appropriate representations
4 to the Supreme Command of the Army; the evidence will
5 show that Mr. HIROTA personally remonstrated in this
6 connection and that the Army took action to the ex-
7 tent of making appropriate investigations and sending
8 a special Army representative to Nanking in that con-
9 nection. As the Foreign Minister had no control what-
10 soever over the activities of the Supreme Command,
11 this was all that any Foreign Minister could be ex-
12 pected to do and actually could do under the Con-
13 stitution of Japan.

14 21. Mr. HIROTA had no connection whatever
15 with such slogans as "New Order" or the "Greater East
16 Asia Co-Prosperity Sphere." Although some quarters in
17 Japan maintained that the Nine-Power Pact had been a
18 dead letter since 1930 because of the Chinese action
19 in unilaterally denouncing all extraterritorial rights
20 in China and that the Pact was impractical in opera-
21 tion, Mr. HIROTA always assured the third powers that
22 their rights in China under the Nine-Power Pact would
23 be scrupulously observed by Japan; Mr. HIROTA was
24 honest and sincere in those representations and all
25 instructions emanating from the Foreign Office

1 warned Japanese authorities that the rights of third
2 powers must be carefully observed.

3 22. Neither the defendant nor his counsel
4 have been able to discover up to this stage the point
5 sought to be made by the prosecution in his relation
6 to the counts of the alleged Indictment. Hence,
7 counsel are necessarily driven to introducing evidence
8 relating to the topics unraveled by the prosecution.
9 The defendant now goes forward with additional
10 evidence and upon the conclusion of the presentation
11 of all the evidence in the case the defendant will
12 most respectfully move this Honorable Tribunal to
13 return a finding of not guilty upon each and every
14 count of the alleged Indictment affecting him.

15 Several additional pieces of evidence are
16 either being prepared in foreign countries or are now
17 en route to Japan. If this evidence does not arrive
18 before the conclusion of the evidence on behalf of
19 Mr. HIROTA, the defendant requests the privilege of
20 introducing such evidence at a later stage of this
21 trial.

22 All of which is most respectfully submitted.
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1 MR. YAMAOKA: We now offer in evidence defense
2 document 2467. This is the affidavit of former American
3 Ambassador Joseph C. Grew, who served in Tokyo from
4 1931 to 1942 continuously. This affidavit is an im-
5 portant piece of evidence and shows that Mr. HIROTA was al-
6 ways wholly opposed to war and exerted his best efforts to
7 avoid war. The affidavit further shows that Mr. HIROTA
8 was fundamentally opposed to many of the policies and ac-
9 tions of other Japanese, especially the policies and ac-
10 tions which ultimately led to war with the United States
11 and other members of the United Nations, and that Mr.
12 Grew observed from time to time actions by Mr. HIROTA
13 tending to arrest the alleged expansionist movement of
14 Japan. In this connection the Court will recall the
15 previous request that Mr. Grew be called as a witness, and
16 it now appearing that his presence as a witness will not
17 be ordered by the Tribunal, this affidavit is offered as
18 next best evidence of the facts which Mr. HIROTA would
19 seek to prove had Mr. Grew been produced as a witness.

20 THE PRESIDENT: Mr. Comyns Carr.

21 MR. COMYNS CARR: May it please the Tribunal,
22 the prosecution objects to this document, which was re-
23 jected yesterday when tendered on behalf of HIRANUMA.
24 In tendering it my learned friend has already read the
25 whole of it so far as it affects HIROTA, and in our sub-

1 mission it is obviously nothing but opinion and charac-
2 ter evidence.

3 THE PRESIDENT: Mr. Yamaoka.

4 MR. YAMAOKA: If the Tribunal please, it is
5 realized that yesterday afternoon this affidavit was
6 rejected. Notwithstanding, in the light of the reserva-
7 tion made yesterday, I desire to point out that it was
8 drawn by a person not versed in the law and consequently
9 may not conform to the rulings of this Tribunal.

10 THE PRESIDENT: By a majority the objection is
11 sustained and the document rejected.

12 MR. YAMAOKA: If the Tribunal please, I should
13 like to reserve the right, and request respectfully the
14 permission of the Tribunal, to offer at a later stage a
15 revised affidavit which will conform to the rulings of
16 the Tribunal.

17 THE PRESIDENT: We note what you say.

18 MR. YAMAOKA: I particularly desire to point
19 out that since Ambassador Grew is not available and we
20 cannot avail ourselves of the opportunity of having his
21 testimony, which we feel would be very favorable to the
22 accused HIROTA, we desire to have the permission of the
23 Tribunal to present a proper affidavit later.

24 THE PRESIDENT: We give you the same concession
25 as we made in the case of HATA.

1 MR. YAMAOKA: Thank you, your Honor.

2 THE PRESIDENT: Major Furness.

3 MR. FURNESS: If the Court please, I wish to
4 make the same reservation I made yesterday.

5 MR. YAMAOKA: We now offer in evidence defense
6 document 2468. This is an affidavit by former American
7 Ambassador Joseph C. Grew. The affidavit verifies a
8 large number of excerpts taken from the diary of Mr.
9 Grew kept in Japan and entitled "Ten Years in Japan."
10 The excerpts incorporated into the affidavit, which will
11 be read hereafter separately, constitute important evi-
12 dence of the attitude and actions taken by Mr. HIROTA
13 during his term of office as Foreign Minister and Prime
14 Minister for the promotion of peace between Japan and
15 all foreign countries.

16 THE PRESIDENT: Mr. Comyns Carr.

17 MR. COMYNS CARR: If it please the Tribunal,
18 the prosecution objects to this document. If any of
19 the documents referred to are in themselves material and
20 proper to be admitted in evidence, the prosecution has
21 never taken any objection to them merely on the ground
22 that they are not verified by affidavit. We shall have
23 to object to them on other grounds when they are tendered,
24 and the affidavit will not carry the matter any further
25 one way or the other.

1 MR. YAMAOKA: If the Tribunal please, in
2 reply I should desire to state that there has been con-
3 siderable objection taken by the prosecution to the
4 excerpts from Mr. Grew's diary "Ten Years in Japan" on
5 various grounds, and in order to obviate such objections
6 and out of an abundance of caution, this affidavit was
7 obtained from Mr. Grew.

8 THE PRESIDENT: The effect of this affidavit is
9 that Mr. Grew says that he wrote that book and that these
10 excerpts from it express the truth in his belief. That
11 is not contested. There is no contest about that; we
12 understand, so this affidavit is unnecessary and may be
13 withdrawn.

14 MR. YAMAOKA: It does, if your Honor please,
15 mention that the excerpts are based either upon personal
16 knowledge or information, which I believe are --

17 THE PRESIDENT: If you press it we will have
18 to take the opinion of the Judges. It does not appear
19 to be necessary.

20 MR. YAMAOKA: Well, as it appears that there
21 is no contest about this, and as the objection will proba-
22 bly be raised as the excerpts are offered, I will, then,
23 withdraw this tender.

24 Next on the order of proof is defense document
25 2469. I desire to withdraw this document.

We offer in evidence defense document 2225.

1 The Soviet section of the prosecution sought to leave the
2 inference that Mr. HIROTA showed an anti-Soviet attitude
3 by refusal to look with favor upon a Japanese-Soviet non-
4 aggression pact. For the purpose of showing the contrary
5 this document is offered to show a statement made by Mr.
6 HIROTA on October 15, 1932, and recorded in the newspaper
7 Tokyo Asahi Shimbun.
8

9 THE PRESIDENT: Mr. Brown.

10 MR. BROWN: Your Honor, the prosecution objects
11 to this document. It is a newspaper report of a statement
12 by HIROTA. In the first place, it is not the best evi-
13 dence available. In the second place, it is a self-serv-
14 ing declaration in so far as it could be said to be rele-
15 vant at all. Almost the whole of the first page can be
16 said to consist of HIROTA's demands on Russia, which,
17 it is submitted, is irrelevant.

18 On the second page the paragraph which fills
19 almost a whole page contains, in the submission of the
20 prosecution, only one or two sentences which are not
21 clearly mere opinion, starting in the middle from "When
22 Mr. YOSHIZAWA, former Foreign Minister, called at Moscow"
23 down to the end of the next sentence, reading "on this
24 problem." It is submitted that every other part of that
25 page is mere opinion. For these reasons the prosecution
objects to this document.

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1 MR. YAMAOKA: If the Tribunal please, in
2 reply to the learned prosecutor I should desire to
3 point out that during the prosecution's case I made
4 a rough survey, and I believe that they have intro-
5 duced into evidence about thirty-eight news articles
6 and various other press releases. I don't believe
7 that the mere fact that this is a newspaper article
8 in and of itself is a valid objection if it correct-
9 ly reports what the accused HIROTA said. And I might
10 add that a perusal of some of the prosecution docu-
11 ments will show that excerpts from this very paper,
12 the Tokyo Asahi Shimbun, have been admitted as evi-
13 dence during the prosecution's case. My associate
14 reminds me that just recently, the day before yester-
15 day, during the cross-examination of Mr. YONAI, such
16 an excerpt was admitted.

17 As to the second ground, this shows very
18 definitely what HIROTA's attitude was vis-a-vis
19 Russia.

20 THE PRESIDENT: By a majority the Tribunal
21 sustains the objection to the extent of the second
22 and third paragraphs. The balance is admitted on
23 the usual terms.

24 CLERK OF THE COURT: Defense document 2225
25 will receive exhibit No. 3232.

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 3232 and received in evidence.)

4 MR. YAMAOKA: I shall then read exhibit
5 3232 with the deletions as ordered by the Tribunal:

6 "October 15, 1932 issue of
7 Tokyo Asahi Shimbun

8 "(No. 16692)"

9 I shall omit the title.

10 "Koki HIROTA, Ambassador at Moscow, arrived
11 in Tokyo on Friday (14th) at 8:25 p.m. Interviewed by
12 our reporter on the train, the Ambassador made the
13 following remarks on the most recent state of affairs
14 in Soviet Russia and her relations with Japan and
15 Manchukuo after the creation of the new empire, par-
16 ticularly on Russia's Far Eastern diplomatic policy
17 centering around the non-aggression pact.

18 "'Japan's despatch of troops to Manchuria'
19 since the outbreak of the Manchurian Incident last
20 autumn gave a temporary shock to Russia, who con-
21 centrated a considerable military strength on the
22 Soviet-Manchurian boundary. At that time Russia
23 appears to have confronted serious financial and
24 other difficulties. There seems to be afloat a rumor
25 in Japan that Russia is at the bottom of the recent

1 Manchuli Incident. This is an instance of being
2 afraid of one's own shadow -- a thing which a great
3 nation should be ashamed of."

4 THE PRESIDENT: Mr. Brown.

5 MR. BROWN: Your Honor, I apologize for
6 interrupting, but is this in accordance with the
7 Court's ruling? There is doubt as to whether the
8 paragraphs are those underlined or whether they are
9 the paragraphs on the first page.

10 THE PRESIDENT: There is no mistake about
11 it, Mr. Brown. I stated what the Court had decided
12 to do.

13 MR. YAMAOKA: Then proceeding from where
14 I stopped:

15 "It is the national policy of Soviet Russia
16 to make previous arrangements for peaceful settlement
17 of any possible dispute with her neighbors. This is
18 reflected in her apparent intention to conclude a
19 non-aggression pact with Japan and Manchukuo. When
20 Mr. YOSHIKAWA, former Foreign Minister, called at
21 Moscow, Messrs. Karakhan and Litvinov advanced an
22 earnest proposal for the conclusion of a similar pact,
23 subsequently declaring the same intention as occasion
24 demanded. I believe Ambassador Troyanovsky has under-
25 taken negotiations in Tokyo on this problem. Appre-

1 hensions are entertained in some quarters that even
2 if Russia may conclude such pact with Japan, she will
3 attempt aggression in the form of ideological warfare,
4 but there is no need of such apprehensions. For in-
5 stance, Italy, who is strongly averse to Communism,
6 has concluded a non-aggression pact with Russia, but
7 no trouble has arisen between the two powers. In
8 Italy red propaganda is strictly prohibited, anyone
9 who launches it being instantly executed by shooting.
10 In Germany the existence of Communists is officially
11 admitted and yet the very fact has not put an end to
12 disputes with Russia. In my opinion, Japan may also
13 conclude the same pact if it is calculated to bring
14 some benefit to Japan.

15 "Recognition of Manchukuo: 'It is meaning-
16 less for Russia to conclude a non-aggression pact with
17 Manchukuo. The other party to the pact ought to be
18 Japan. Soviet Russia has given de facto recognition
19 to Manchukuo. She not only desires to have a Man-
20 chukuan consul stationed in Moscow but also suggests
21 that the Japanese Ambassador hold Manchukuan consul-
22 ship concurrently. She will formally recognize Man-
23 chukuo if she can reap some benefit therefrom. Nego-
24 tiations for formal recognition will be pushed forward
25 after an exchange of consuls. Delimitation of the

1 Soviet-Manchurian boundary has not yet become a sub-
2 ject of discussion."

1 There is a certificate attached which I will
2 not read.

3 We offer in evidence defense document 2068.
4 This document contains an address of Count UCHIDA,
5 Minister for Foreign Affairs, at the 64th session
6 of the Imperial Diet on January 21, 1933. The Tri-
7 bunal will recall that Count UCHIDA immediately pre-
8 ceded Foreign Minister HIROTA. This statement shows
9 the attitude of the Foreign Minister with respect to
10 a non-aggression pact between Japan and the Soviet
11 Union. On that occasion Count UCHIDA called atten-
12 tion to the fact that the basic principle of non-
13 aggression between Japan and the Soviet Union was
14 embodied both in the Russo-Japanese basic treaty
15 signed many years ago at Peking and in the Anti-War
16 Pact (Kellogg-Briand Pact).

17 THE PRESIDENT: Mr. Brown.

18 MR. BROWN: Your Honor, the prosecution
19 objects to this document on two grounds. In the
20 first place, it is irrelevant to the case of HIROTA
21 because he was not in office at the time and should,
22 in our submission, if introduced at all, have been
23 introduced during one of the general phases. In the
24 second place, it is a public statement by a minister
25 which may or may not reflect his real views. I don't

1 know whether it is necessary to remind the Tribunal
2 that, of course, similar documents in the case of
3 ARAKI were rejected by the Court.

4 MR. YAMAOKA: If the Tribunal please --

5 THE PRESIDENT: Yes, Mr. Yamaoka.

6 MR. YAMAOKA: While it is true that this
7 statement was made by Count UCHIDA while Mr. HIROTA
8 was not in office, nevertheless, we believe it is
9 relevant in showing that the policy of Japan, that
10 is, the policy of the Japanese Government as to the
11 Non-Aggression Pact, had already been decided by
12 the previous government. Consequently, the attitude
13 and actions taken by the accused HIROTA subsequently
14 concerning this is not a matter of his own choosing.

15 THE PRESIDENT: The objection is sustained
16 and the document rejected.

17 MR. YAMAOKA: I desire to call the witness
18 KANEYAMA, Kazuji.

19 MR. YAMAOKA: I wish to introduce Document 284
20 in evidence.

21 If the Tribunal please, I desire to call
22 attention to two errors which have been issued
23 in connection with this document in the English ver-
24 sion. The first one relates to para 1, paragraph 1,
25 line 4. The words "and from November 1930 to May

1 K A Z U J I K A M E Y A M A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as fol-
4 lows:

5 DIRECT EXAMINATION

6 BY MR. YAMAOKA:

7 Q Will the witness state his name and address?

8 A My name is KAMEYAMA; my address, 885 Kurachi,
9 Seki-Machi, Kifu Prefecture.10 MR. YAMAOKA: May the witness be shown de-
11 fense document 2464?12 (Whereupon, a document was handed
13 to the witness.)14 Q Is that document which you have your affi-
15 davit?

16 A Yes, it is.

17 Q Is it in all respects true and correct?

18 A Yes, it is as you say.

19 MR. YAMAOKA: I offer defense document 2464
20 in evidence.21
22 If the Tribunal please, I desire to call
23 attention to two errata sheets that have been issued
24 in connection with this document in the English ver-
25 sion. The first one relates to page 1, paragraph 1,
line 4. The words "and from November 1930 to May

1 1935" after "from February 1922 to March 1927" should
2 be inserted; also another errata sheet on this docu-
3 ment which substitutes a new page 2 of this document.
4 That is all.

5 THE PRESIDENT: Mr. Comyns Carr.

6 MR. COMYNS CARR: May it please the Tribunal,
7 the prosecution objects to the whole of this affidavit
8 but on different grounds with regard to parts of it:

9 Paragraphs 2, 3, 4 and 5, which relate to
10 the Non-Aggression Pact, on the ground that they add
11 nothing to and in no way qualify the evidence already
12 introduced on this subject by the prosecution;

13 In exhibit 744, page 7719; 748, page 7720,
14 and 747, page 7727; and with regard to paragraphs
15 3 and 4 there are the further objections that every-
16 thing in them is covered by the last exhibit just
17 admitted -- more than covered by the last exhibit
18 just admitted; and further, that they go so far away
19 from the best evidence rule as not to be admissible
20 at all;

21 Paragraph 3 purports to record, by a
22 gentleman who says he was at the time in Tokyo, a
23 conversation between HIROTA and Mr. Karahan in Mos-
24 cow. The best evidence of that is obviously Mr.
25 HIROTA himself;

1 And the same with regard to paragraph 4,
2 purporting to record a conversation between HIROTA
3 and UCHIDA which the witness says he learned from
4 an unnamed superior official.

5 Paragraph 6 to the end of the affidavit
6 deals with the negotiations for the aquisition of
7 what is called the East China Railway. Paragraph 6
8 is objected to on the ground that it relates to
9 something which took place while Mr. HIROTA was not
10 in office -- or, rather, something took place in
11 Japan with which he had nothing to do.

12 Paragraph 7, again, on the ground that it
13 purports to record a conversation in Moscow between
14 HIROTA and Karahan when the witness was in Tokyo,
15 and an alleged statement which some unnamed person
16 is said to have said that an unnamed Russian official
17 made;

18 Paragraph 8 is hearsay coming from an un-
19 named superior official about a conversation which
20 HIROTA could prove between himself and UCHIDA.

21 Paragraph 9 is a conversation between a
22 Soviet official and another Ambassador who had suc-
23 ceeded HIROTA in Moscow about which the witness can
24 obviously know nothing, in a period when HIROTA was
25 not in office.

1 Paragraph 10 relates in immense detail the
2 haggling between the Japanese and Soviet Governments
3 about the precise sum of money to be paid for the
4 railway, the transaction being already sufficiently
5 recorded in exhibit 703, page 7516 and 443A, page
6 5042.

7 Paragraph 11 says that certain original
8 documents have been burned, which we have, in fact,
9 produced and exhibited, or, rather, the real origin-
10 als of which we have produced and exhibited.

11 THE PRESIDENT: Mr. Yamaoka, we will hear
12 your reply in the morning. We will adjourn now
13 until half-past nine tomorrow morning.

14 (Whereupon, at 1602, an adjourn-
15 ment was taken until Friday, 26 September,
16 1947 at 0930.)

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